

EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION**

MICHAEL CLOUD

Plaintiff

v.

**THE BERT BELL/PETE ROZELLE
NFL PLAYER RETIREMENT PLAN**

Defendant

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CIVIL ACTION NO. 3:20-CV-01277-E

**DECLARATION OF CHRISTIAN DENNIE ON
ATTORNEYS' FEES AND COSTS AND EXPENSES**

I, Christian Dennie, declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct:

1. My name is Christian Dennie. I am over the age of 18 years. I have never been convicted of a felony or of any crime involving dishonesty or the making or use of false statements. I have personal knowledge of the facts stated in this Declaration, and they are true and correct. At all relevant times to this proceeding and since the inception of this matter, I have served as lead counsel for Michael Cloud (“**Cloud**” or “**Plaintiff**”) in the dispute that is pending in the United States District Court for the Northern District of Texas, Dallas Division under Civil Action No. 3:20-CV-01277-E and styled *Michael Cloud v. The Bert Bell/Pete Rozelle NFL Player Retirement Plan* (“**Case**”).

Background

2. I received a Bachelor of Business Administration from Sam Houston State University in 2001 where I was the centerfielder on the baseball team. Subsequently, in 2004, I received a Juris Doctor from the University of Oklahoma College of Law and was a member of the American Indian Law Review and the University of Oklahoma Student Association Election Committee. While attending the University of Oklahoma College of Law, I was also employed by the University of Oklahoma Department of Athletics.

3. I am a member in good standing with the State Bar of Texas. I have been licensed to practice law in the State of Texas since 2004 and I am duly authorized to practice law before all courts in the State of Texas, United States District Court for the Northern, Eastern, Western, and Southern Districts of Texas, United States District Court for the Western District of Oklahoma,

and the United States Fifth Circuit Court of Appeals. I have also been admitted to practice in other federal district courts through *pro hac vice* applications.

4. I am a partner in the law firm of Barlow Garsek & Simon, LLP (“**Firm**”) and have been so employed since September 2010. In addition to my role at the Firm, I am an adjunct professor of law at Texas A&M University School of Law and Southern Methodist University and have taught at such institutions since 2008 and 2014, respectively. At Texas A&M University School of Law, I teach Sports Law and Deposition Skills. At Southern Methodist University, I teach in the Masters of Science in Sports Management program and teach Sports Law and Case Studies in Sports Law. In 2007, I taught Sports Law at the University of Missouri School of Law while I was employed by the University of Missouri Department of Athletics.

5. During my career, I have published extensively in law journals and legal publications. I have published ten (10) law review articles featured in journals at the Cecil C. Humphreys School of Law at the University of Memphis, University of North Carolina School of Law, University of Mississippi School of Law, Syracuse University College of Law, University of Arkansas School of Law, University of Virginia School of Law, University of Texas School of Law, Seton Hall Law School, and Tulane Law School. I have also published nineteen (19) articles featured in legal publications including the Sports Litigation Alert, Journal of NCAA Compliance, Legal Issues in Collegiate Athletics, Journal of Issues in Intercollegiate Athletics, Texas Bar Journal, Chronicles of Higher Education, and the Andrews Entertainment Industry Litigation Reporter.

6. During my career, I have lectured, spoken, and presented extensively throughout the United States. I have appeared as a panelist or presenter at legal events conducted by the ABA Forum on Entertainment and Sports Industries, State Bar of Texas, Harvard Law School, National Association of Athletics Compliance, Tarrant County Bar Association, United States Patent and Trademark Office, Texas A&M University School of Law, Dallas Bar Sports & Entertainment Law Section, Austin Bar Association, Houston Bar Association, Lone Star Conference, Sam Houston State University, Duke University School of Law, University of Texas School of Law, University of North Carolina, University of Miami School of Law, Southern Methodist University, University of Virginia School of Law, University of Mississippi School of Law, Thomas Jefferson School of Law, Heartland Conference, University of Oklahoma College of Law, Costco, University of North Texas, University of Dallas, Big 12 Conference, National Collegiate Athletic Association, and University of Missouri.

7. I have tried more than fifty-five (55) cases before judges, juries, administrative panels and bodies, and arbitrators, and have argued before courts of appeals and administrative bodies. Additionally, I have served as an arbitrator in more than four hundred (400) cases and a mediator in more than one hundred (100) cases. I am currently a neutral serving on panels for the American Arbitration Association, International Centre for Dispute Resolution, JAMS, United States Council for International Business, London Court of International Arbitration, Construction Dispute Resolution Services, National Arbitration Forum, DeMars & Associates, Ltd., American Health Lawyers Association DRS, National Arbitration and Mediation, National Futures Association, Resolute Systems, and Texas Tax Appraisal Arbitration. For my service as a neutral,

I have been selected to be a Member of the National Academy of Distinguished Neutrals and a Fellow of the Chartered Institute of Arbitrators. I also serve as a member of the National Sports Advisory Committee for the American Arbitration Association.

8. The majority of my practice focuses on commercial disputes (transactional, negotiations, investigations, and litigation) in the sports and entertainment industry. I have represented clients and/or served as neutral in disputes involving the following sports: badminton, baseball, basketball, boxing, cross country, crossfit, cycling, equestrian, fencing, fishing, football, futsal, golf, gymnastics, hockey, judo, lacrosse, mixed martial arts, quidditch, rowing, soccer, softball, skiing and snowboarding, swimming and diving, tennis, taekwondo, track and field, volleyball, ultimate, water polo, and wrestling. In my sports and entertainment practice, I have represented more than three hundred (300) athletes consisting of high school athletes, college athletes, Olympic athletes, and professional athletes including current and former professional football players. I have also represented, among others, sports organizations and associations, institutions of higher learning, coaches, conference offices, sports agents and contract advisors, sports agencies, equipment and apparel manufacturers, event organizers, professional teams and clubs, media companies, and union and trade associations. In my representation of professional sports unions representing the interests of officials and referees, I have been heavily involved in the negotiation of and disputes pertaining to the Employee Retirement Income Security Act of 1974 (“**ERISA**”), which has included the negotiation of retirement plans and pensions, disability plans, and associated plans and policies.

9. For my work, I have been recognized as a “top attorney” (or similar title or designation) by *Super Lawyers*, *Fort Worth, Texas Magazine*, *360 West Magazine*, *Corp Today Magazine*, *Acquisition International*, *Expertise*, *National Diversity Council*, and *Wealth & Finance International*. Additionally, the Firm has been designated as one of the “Best Law Firms” by *U.S. News & World Report*.

Attorney’s Fees and Costs under ERISA

10. The fees and costs incurred, as presented herein, run from the inception of the Case through June 3, 2022. Plaintiff, as the prevailing party, is entitled to recovery of attorneys’ fees and costs under 29 U.S.C. § 1132(g)(1). Section 1132(g)(1) of ERISA states as follows:

(g) Attorney’s fees and costs; awards in actions involving delinquent contributions.

(1) In any action under this title (other than an action described in paragraph 2) by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney’s fee and costs of action to either party.

In *Hardt v. Reliance Standard Life Insurance Co.*, the United States Supreme Court held that an applicant for fees need not be a “prevailing party,” so long as they have achieved “some success on the merits.” *Hardt v. Reliance Standard Life Insurance Co.*, 560 U.S. 242, 256 (2010). A

claimant satisfies this requirement “if the court can fairly call the outcome of the litigation some success on the merits without conducting a ‘lengthy inquir[y] into the question whether a particular party’s success was substantial or occurred on a central issue.’” *Id.* “The discretion to award fees is guided by the ‘general rule’ that a successful ERISA plaintiff should, in the ordinary course, receive fees from the defendant.” *Dimry v. Bert Bell/Pete Rozelle NFL Player Retirement Plan*, Case No. 3:16-CV-01413-JD, 2018 WL 6726963, 2018 U.S. Dist. LEXIS 215906 at *2 (N.D. Cal. Dec. 22, 2018)(awarding fees in favor of the Plaintiff in the amount of \$450.00 per hour for the associate and \$900.00 per hour for the partner). In *Vega v. National Life Ins. Services, Inc.*, the Fifth Circuit stated, in pertinent part, as follows:

If an administrator has made a decision denying benefits when the record does not support such a denial, the court may, upon finding an abuse of discretion on the part of the administrator, award the amount due on the claim and attorneys’ fees. We find such an abuse of discretion here, and we will remand to the district court for a determination of damages and reasonable attorney’s fees and for entry of judgment.

Vega v. National Life Ins. Services, Inc., 188 F.3d 287, 302 (5th Cir. 1999)(internal citations omitted). When determining whether to award attorneys’ fees under ERISA, the district court may consider the following:

(1) the degree of the opposing parties’ culpability or bad faith; (2) the ability of the opposing parties to satisfy an award of attorneys’ fees; (3) whether an award of attorneys’ fees against the opposing parties would deter other persons acting under similar circumstances; (4) whether the parties requesting attorneys’ fees sought to benefit all participants and beneficiaries of an ERISA plan or to resolve a significant legal question regarding ERISA itself; and (5) the relative merits of the parties’ positions.

Iron Workers Local No. 272 v. Bowen, 624 F.2d 1255, 1266 (5th Cir. 1980). In *Dimry v. Bert Bell/Pete Rozelle NFL Player Retirement Plan*, the district court analyzed similar factors and concluded, in pertinent part, as follows:

An award here amply satisfies the five *Hummell* factors.¹ First, defendants manifested a degree of culpability and bad faith in denying Dimry’s claim

¹ The *Hummell* factors are virtually identical the *Bowen* factors and, actually, the Ninth Circuit adopted the *Bowen* factors in creating the *Hummel* factors. The *Hummell* factors are as follows:

We agree with the Fifth and Tenth Circuits that district courts should have guidelines to apply in the exercise of their discretion under § 1132(g). They should consider these factors among others: (1) the degree of the opposing parties’ culpability or bad faith; (2) the ability of the opposing parties to satisfy an award of fees; (3) whether an award of fees against the opposing parties would deter others from acting under similar circumstances; (4) whether the parties requesting fees sought to benefit all participants and beneficiaries of an ERISA plan or to resolve a significant legal question regarding ERISA; and (5) the relative merits of the parties’ positions.

in the manner discussed in the merits order, Dkt. No. 80. Second, there is no dispute that defendants have the ability to pay the claimed fees and costs. Third, the award should have a deterrent effect on defendants from engaging in a similar abuse of discretion in handling other claims. Fourth, other claimants will be able to rely on the Court's merits decision to prosecute other benefits claims with defendants. And fifth, the relative merits tilted substantially in Dimry's favor, as the remand order concluded.

Dimry, 2018 U.S. Dist. LEXIS 215906 at *6.

11. The evidence, here, has shown that Defendant committed multiple and numerous violations of the governing disability plan document and ERISA and acted with culpability and bad faith in its actions. As the evidence has confirmed, the decision relevant to Plaintiff's claim for benefits was denied without a full and fair review and, frankly, was not conducted by the Board of Defendant. Indeed, the Board of Defendant did not even consider certain required provisions of the governing disability plan document. There is no question that Defendant has billions of dollars in assets and, certainly, has the ability to satisfy an award of attorneys' fees and costs of court. This Honorable Court's decision setting forth and detailing Defendant's actions will assist other wronged beneficiaries. Plaintiff hopes that such an award will deter further similar actions by Defendant. Plaintiff has had to scratch and claw to obtain necessary discovery and evidence to confirm his position that Defendant (and its associated Committee and Board) has acted in violation of the governing plan document and ERISA. Defendant has fought every effort of Plaintiff to obtain necessary information. After this Honorable Court ordered production of witnesses for depositions and ordered production of documents, Plaintiff was able to confirm multiple wrongful acts of Defendant.

Lodestar Method

12. District courts in the United States Fifth Circuit Court of Appeals ("**Fifth Circuit**") apply a two-step process to determine the appropriate sum of attorneys' fees to award. *La. Power & Light Co. v. Kellstrom*, 50 F.3d 319, 323-24 (5th Cir. 1995). First, district courts determine the lodestar, which is the reasonable number of hours expended on the litigation multiplied by the reasonable hourly rates for the participating lawyers. *Id.* at 324. Then, district courts in the Fifth Circuit decide whether to accept the lodestar or adjust it (*upward or downward*), considering the factors enumerated in *Johnson v. Ga. Highway Express, Inc.* The *Johnson* factors are as follows:

- (1) the time and labor required for the litigation; (2) the novelty and complication of the issues; (3) the skill required to properly litigate the issues; (4) whether the attorney had to refuse other work to litigate the case; (5) the attorney's customary fee; (6) whether the fee is fixed or contingent; (7) whether the client or case circumstances imposed any time constraints; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) whether the case was

Hummell v. S.E. Rykoff & Co., 634 F.2d 446, 453 (9th Cir. 1980)(citing *Iron Workers Local No. 272 v. Bowen*, 624 F.2d 1255, 1266 (5th Cir. 1980)).

"undesirable;" (11) the type of attorney-client relationship and whether that relationship was long-standing; and (12) awards made in similar cases.

Johnson, 448 F.2d at 717-19.

Time and Labor

13. I am familiar with reasonable attorneys' fees charged by attorneys in Dallas/Fort Worth Metroplex and, specifically, in the United States District Court for the Northern District of Texas, Dallas Division ("**Northern District**") who are litigating matters with the same or similar work that has been performed in connection with this Case. Based on my knowledge and experience in litigation, including litigation in federal courts in the Northern District, I am familiar with what are reasonable and customary billing rates for attorneys in this area as well as the reasonable and customary billing rates for partners, associates, law clerks, and paralegals. Through June 3, 2022, the Firm has expended a total of 2,211.00 hours totaling \$1,004,501.25. The hours expended and fees charged are reasonable and customary for partners, associates, law clerks, and paralegals in the Northern District. The fees presented eliminate fees for any duplicative work, time for work that was reviewed and revised by me (as lead counsel), and time spent by paralegals that was clerical in nature. A true and correct copy of the Firm's billing records is attached hereto as **Exhibit "3-A"**.

14. In this case, I have attended and taken or defended eight (8) depositions including the depositions of Patrick Reynolds, Chris Smith, Sam Vincent, Dick Cass, Robert Smith, Jennifer Cloud, Michael Cloud, and Dr. Joseph Wu. This Case has resulted in the production of approximately 20,000 pages of records including documents produced by 1) Defendant labeled CLOUD-AR-001-0529, CLOUD-XFILE-0000001 – CLOUD-XFILE-0004231, CLOUD-DATA-001-CLOUD-DATA-0012, CLOUD-RPTS-0001-0001908, CLOUD-DB-00000001-0000180 CLOUD-LTRS-000001-008707, CLOUD-MIN-001-006, CLOUD-SUM-0000001-000037, and CLOUD-SUBP-0000001-0000443; 2) Plaintiff labeled CLOUD_000001-04346; and 3) NFLPA labeled NFLPA 000001-000313. Plaintiff has sent First Set of Interrogatories, First Request for Production, Second Request for Production, and Third Request for Production to Defendant and Plaintiff has responded to Defendant's First Request for Production and Defendant's First Set of Interrogatories in addition to Rule 26 Initial Disclosures. There have been numerous discovery disputes in this matter that have resulted in the filing of multiple motions to this Honorable Court seeking depositions and document discovery. The parties extensively briefed multiple issues including dispositive motions. A true and correct copy of the docket sheet for this case is attached hereto as **Exhibit "3-B"**. The docket sheet details the numerous pleadings filed and orders issued in this Case.

15. I have been lead counsel in this Case since its inception. My credentials and practice are set forth above in great detail. In this Case, I have overseen the entirety of this matter, conducted written discovery, taken and defended eight (8) depositions, drafted numerous pleadings, and reviewed approximately 20,000 pages of documents and records. My hourly rate is \$495.00 per hour. I worked 1,093.50 hours on this Case totaling \$541,282.50. The hours

expended and fees charged by me are reasonable and customary for partners in litigation of this kind in the Northern District.

16. Due to the complexity of this dispute and the volume of records and information, I have sought the assistance of the following individuals:

- a. **Chris Collins**: In the billing records attached hereto as **Exhibit “3-A”**, Mr. Collins is referenced as “CDC”. Mr. Collins is a lawyer licensed in the State of Texas and the United States District Court for the Northern District of Texas since 2000. Mr. Collins obtained a Bachelor of Arts from Texas Tech University in 1996 and a Juris Doctor from St. Mary’s School of Law in 1999. Mr. Collins has been recognized as a “Top Attorney” by *Fort Worth, Texas* magazine, “Texas Rising Star” by *Super Lawyers*, “Top Rated Lawyers” by ALM, and has an A-V Rating by Martindale-Hubbell. Mr. Collins is a Partner in the Firm. His areas of practice include alternative dispute resolution, appellate, bankruptcy, business and tort litigation, construction, employment, intellectual property, and real estate litigation. Mr. Collins has primarily assisted me with legal research in preparation of the dispositive motion, strategy for presentation of evidence and trial, and attorneys’ fees under ERISA. Mr. Collins’ s hourly rate is \$520.00 per hour. He has expended **10.00 hours** working on this Case totaling **\$5,200.00**.
- b. **Paul Vitanza**: In the billing records attached hereto as **Exhibit “3-A”**, Mr. Vitanza is referenced as “PJV”. Mr. Vitanza is a lawyer licensed in the State of Texas and the United States District Court for the Northern District of Texas since 2000. Mr. Vitanza obtained a Bachelor of Arts from Southwestern University in 1997 and a Juris Doctor from Baylor University School of Law in 2000. Mr. Vitanza has been recognized as a “Top Attorney” by *Fort Worth, Texas* magazine. Mr. Vitanza is a Senior Associate in the Firm. His primary area of practice is various types of complex litigation. Mr. Vitanza has assisted me with legal research, drafting multiple filings and pleadings, reviewed documents produced by Defendant, and preparation and attendance at trial. Mr. Vitanza’ s hourly rate is \$450.00 per hour. He has expended **949.00** hours working on this Case totaling **\$427,050.00**.
- c. **Kevin McIlwain**: In the billing records attached hereto as **Exhibit “3-A”**, Mr. McIlwain is referenced as “MKM”. Mr. McIlwain is a lawyer licensed in the State of Oklahoma and the United States District Court for the Eastern, Northern, and Western District of Oklahoma since 2020. Mr. McIlwain obtained a Bachelor of Arts from Baylor University in 2014 and a Juris Doctor from University of Tulsa College of Law in 2020. Mr. McIlwain recently joined the Firm as an Associate and will soon take the Texas Bar. His primary of areas of practice are sports and entertainment law and complex commercial disputes. Mr. McIlwain has assisted me with

legal research, drafting filings and pleadings, and trial preparation. Mr. McIlwain's hourly rate is \$300.00 per hour. In this matter, he has expended **63.75** hours working on this Case totaling **\$19,125.00**.

- d. **Holden Cammack**: In the billing records attached hereto as **Exhibit "3-A"**, Mr. Cammack is referenced as "HGC". Mr. Cammack was a law clerk for the Firm and was, at the time, a third-year law student at Southern Methodist University, Dedman School of Law. Mr. Cammack obtained a Bachelor of Business Administration from Oral Roberts University in 2016. Before attending law school, Mr. Cammack was a professional baseball player and pitcher in the Chicago Cubs organization. Mr. Cammack has assisted me with legal research, drafting memoranda, reviewed Plaintiff's documents, and reviewed documents produced by Defendant. Mr. Cammack's hourly rate is \$125.00 per hour. He has expended **48.25 hours** working on this Case totaling **\$6,031.25**.
- e. **Lee Ann Burks**: In the billing records attached hereto as **Exhibit "3-A"**, Ms. Burks is referenced as "LAB". Ms. Burks is a litigation paralegal for the Firm. Ms. Burks obtained a Paralegal Diploma from Arlington Career Institute in 1999. Ms. Burks has been a paralegal in the Dallas/Fort Worth Metroplex for over twenty (20) years. Ms. Burks has assisted me with preparing Rule 26 Initial Disclosures and pretrial matters. Ms. Burks' hourly rate is \$125.00 per hour. In this matter, she has expended **20.50 hours** working on this Case totaling **\$2,562.50**. Ms. Burks has actually worked many more hours on this Case, but Plaintiff is not seeking recovery of any additional hours.
- f. **Tracie Vestall**: In the billing records attached hereto as **Exhibit "3-A"**, Ms. Vestall is referenced as "TKV". Ms. Vestall is a litigation paralegal for the Firm. Ms. Vestall obtained an Associate of Science from Tarrant County Junior College in 1990 and Paralegal Certificate from Arlington Career Institute in 1993. Ms. Vestall has been a paralegal in the Dallas/Fort Worth Metroplex for over twenty-nine (29) years. Ms. Vestall has assisted me with preparing appendices for pleadings filed in this Case, preparing timeline of decision letters produced by Defendant, preparing deposition excerpts, pretrial matters, and review of documents produced by Defendant. Ms. Vestall's hourly rate is \$125.00 per hour. In this matter, she has expended **26.00 hours** working on this Case totaling **\$3,250.00**. Ms. Vestall has actually worked many more hours on this Case, but Plaintiff is not seeking recovery of any additional hours.

Each of the above-referenced individuals has the qualifications necessary for the work they performed in this Case as more fully set forth in **Exhibit "3-A"**. The work performed by the above-referenced individuals consists of substantive legal work performed under my direction and supervision. The hours expended and fees charged by Chris Collins, Paul Vitanza, Kevin

McIlwain, Holden Cammack, Lee Ann Burks, and Tracie Vestall are reasonable and customary for partners, associates, law clerks, and paralegals, as applicable, in the Northern District.

17. As noted above, the attorneys' fees presented run through June 3, 2022. Plaintiff will incur additional attorneys' fees reviewing Defendant's response to *Plaintiff's Opposed Motion for Attorneys' Fees and Costs and Brief in Support*, filing a reply in support of *Plaintiff's Opposed Motion for Attorneys' Fees and Costs and Brief in Support*, and additional work and information needed to represent Plaintiff before this Honorable Court. It is estimated that the Firm will expend an additional 20.00 hours totaling \$9,900.00. The estimated hours and fees charged are reasonable and customary for attorneys in the Northern District for preparation for and attendance at trial.

Novelty and Complication of Issues

18. This Case involves the improper denial of disability benefits to Plaintiff under the terms of Bert Bell/Pete Rozelle NFL Player Retirement Plan (the "**Plan**"). For the first time, this Honorable Court required the members of the Disability Initial Claims Committee ("**Committee**") and the Retirement Board ("**Board**") of the Plan to submit to depositions. Also, for the first time, this Honorable Court required Defendant to produce documents evidencing the basis for the Plan's decisions. Plaintiff has discovered alarming irregularities and multiple violations of ERISA. No other disabled former NFL player has been given the opportunity to discover these irregularities. The issues in this case have been complicated and intricate, which has required extensive research and review of documentation ordered to be produced in this Case. The issues presented here are novel and complicated. This Honorable Court's decision and opinion will have far-reaching effects on future claims brought by other disabled former NFL players who have been wronged by Defendant.

Skill Required

19. This Case has required extensive skill to obtain the results sought and achieved. My knowledge of the sports industry and working with governing boards has provided the necessary insight to obtain information through written discovery and depositions and at trial. My litigation and trial skills (along with the support and skills of my colleagues) have advanced Plaintiff's claims and resulted in a successful result at trial.

Customary Fee

20. As noted in great detail above, the customary hourly rates for myself and my colleagues are as follows: Christian Dennie (\$495.00 per hour), Chris Collins (\$520.00 per hour), Paul Vitanza (\$450.00 per hour), Kevin McIlwain (\$300.00 per hour), Holden Cammack (\$125.00), Lee Ann Burks (\$125.00), and Tracie Vestall (\$125.00). The customary fees charged are reasonable and customary for partners, associates, law clerks, and paralegals, as applicable, in the Northern District.

Fixed or Contingent Fee

21. Plaintiff hired the Firm to represent him on a contingent fee basis acknowledging, however, that attorneys' fees and costs are recoverable under 29 U.S.C. § 1132(g)(1). This is only the third contingency fee case I have worked.

Time Restraints

22. This Case has required extensive travel including depositions in Washington DC and Providence, Rhode Island. This Honorable Court has also often ordered expedited briefing. This case has imposed significant time constraints that have required immediate attention to detail. The time and effort expended on this matter has caused me to decline other work and employment due the extreme detail and focus needed to zealously represent Plaintiff.

Amount Involved and Results Obtained

23. This Case involves the denial of disability benefits. Plaintiff was awarded Inactive A benefits under the terms of the Plan at a rate of \$135,000.00 per year. The Active Football benefits pay Plaintiff at a rate of \$265,008.00 per year. That is a difference of \$130,008.00 per year from 2014 to present. Additionally, once awarded, Plaintiff will receive \$265,008.00 (or amount subsequently adjusted) on a go forward basis.

Undesirability of Case

24. Disputes with the Plan have historically been arduous. This is the most difficult and arduous dispute I have ever litigated. Virtually every single issue was hotly disputed. I was treated inappropriately, called names, threatened, and it was represented to this Honorable Court that I committed malpractice. These types of issues lend to a conclusion that representing disabled former NFL players against the Plan is undesirable.

Type of Attorney-Client Relationship

25. I do not have a longstanding relationship with Plaintiff. This is the only case where I have served as counsel for Plaintiff.

Awards in Similar Cases

26. The most applicable case to this Case is *Dimry v. Bert Bell/Pete Rozelle NFL Player Retirement Plan*. In *Dimry*, Defendant ignored the plain language of the Plan document and denied the disabled former NFL player his rightful benefits. The district court remanded the case to the Board for further review. Despite not having near the amount of discovery and documents as this Case, the district court awarded plaintiff's counsel "(1) \$279,370 in fees up to this motion; (2) \$13,230 in fees for this motion (Dkt. No. 91-2); 3) \$2,635.62 in costs; and (4) post-judgment interest at a rate and in an amount to be stipulated to by the parties as guided by statute." *Dimry*, 2018 U.S. Dist. LEXIS 215906 at *6. The district court awarded Plaintiff's counsel at a rate of

\$450.00 per hour for the associate and \$900.00 per hour for the partner, which is far greater than the hourly fees sought here. *Id.* (awarding fees in favor of the Plaintiff in the amount of \$450.00 per hour for the associate and \$900.00 per hour for the partner). As Defendant's counsel has noted, the Plan has never (prior to this Case) been required to submit anyone for deposition and has not been ordered to present documents evidencing other decisions rendered (among others). The work required in this Case has been much more extensive than any other case involving Defendant. A true and correct copy of attorneys' fees and costs award in *Dimry v. Bert Bell/Pete Rozelle NFL Player Retirement Plan* is attached hereto as **Exhibit "3-C"**.

Conditional/Contingent Appellate Attorney's Fees

27. In addition to attorneys' fees rendered in this matter through May 16, 2022 as set forth in this Declaration, Plaintiff seeks conditional/contingent appellate attorneys' fees for proceedings before the Fifth Circuit and the United States Supreme Court, if any. The record in this case is extensive and will take substantial time and effort to review the record, prepare and review appellate pleadings and briefing, and argue the disputed issues. This Honorable Court is permitted to grant Plaintiff conditional/contingent appellate attorneys' fees. *See, e.g., Q2 Software, Inc. v. Radius Bank*, A- 18-CV-00878-RP, 2020 WL 1482591, 2020 U.S. Dist. LEXIS 53490 at *1 (W.D. Tex. Mar. 27, 2020); *J&J Sports Productions, Inc. v. McLaughlin*, CV H-16-2450, 2017 WL 3235670, 2017 U.S. Dist. LEXIS 119487 at *4 (S.D. Tex. July 31, 2017); *Thatcher v. OakBend Med. Ctr.*, CV H-14-3551, 2016 WL 5848889, 2016 U.S. Dist. LEXIS 138956 at *9 (S.D. Tex. Oct. 6, 2016); *Balfour Beatty Rail, Inc. v. Kansas City S. Ry. Co.*, 2016 U.S. Dist. LEXIS 159402, 2016 WL 6788057, at *5 (N.D. Tex. Oct. 28, 2016), *report and recommendation adopted*, 2016 U.S. Dist. LEXIS 158446, 2016 WL 6778390 (N.D. Tex. Nov. 16, 2016), *aff'd*, 725 F. App'x 256 (5th Cir. 2018); *Joe Hand Promotions, Inc. v. Tin Cup Sports Bar, Inc.*, CIV.A. 11-01929, 2012 WL 2572504, 2012 U.S. Dist. LEXIS 91378 at *3-4 (S.D. Tex. June 28, 2012); *Webb v. Abbruzzese*, 4:02-CV-5, 2003 WL 21771017, 2003 U.S. Dist. LEXIS 13339 at *3 (E.D. Tex. Aug. 1, 2003); *In re Arnette*, 09-38643-BJH-7, 2011 WL 3651294, 2011 Bankr. LEXIS 3168 at *5 (Bankr. N.D. Tex. Aug. 18, 2011).

28. The rates charged and individuals working on appellate matters, if any, will be the same as set forth above. Plaintiff seeks **\$250,000.00** in conditional appellate attorneys' fees if and when this Case is presented for review to the Fifth Circuit and an additional **\$350,000.00** if and when this Case is presented to the United States Supreme Court. The conditional appellate attorneys' fees sought are reasonable and customary for partners, associates, law clerks, and paralegals, as applicable, in the Fifth Circuit and the United States Supreme Court.

Costs and Expenses

29. Plaintiff seeks and requests recovery of recoverable costs and expenses. Plaintiff's costs and expenses include filing fees, legal research, service of process, postage, requests for medical records, subpoenas fees, deposition costs and transcript fees, trial fees and expenses, parking expenses of hearings before this Honorable Court, travel costs, and costs of mediation. Plaintiff has excluded all costs and expenses that are not recoverable under Fifth Circuit precedent. A true and correct copy of the Firm's costs and expenses is attached hereto as **Exhibit "3-A"**.

30. Section 1132(g)(1) of ERISA provides for recovery of the "costs of action." 29 U.S.C. § 1132(g). The Fifth Circuit has stated that "all reasonable out-of-pocket expenses, including charges for photocopying, paralegal assistance, travel, and telephone, are plainly recoverable in fee awards because they are part of the costs normally charged to a fee-paying client." *Associated Builders & Contractors of Louisiana, Inc. v. Orleans Parish School Bd.*, 919 F.2d 374, 380 (5th Cir. 1990)(citing *International Woodworkers of Am. v. Champion Int'l Corp.*, 790 F.2d 1174, 1185 (5th Cir. 1986)). Under this reasoning, courts have found that the cost of reasonable computerized legal research is recoverable as well. See *United States v. Merritt Meridian Constr. Corp.*, 95 F.3d 153, 173 (2nd Cir. 1996) (stating "[c]omputer research is merely a substitute for an attorney's time that is compensable under an application for attorneys' fees...."); *Haroco, Inc. v. American Nat'l Bank and Trust Co. of Chicago*, 38 F.3d 1429, 1440 (7th Cir. 1994); *Johnson v. University College of the Univ. of Ala. in Birmingham*, 706 F.2d 1205, 1209 (11th Cir. 1983).

31. Plaintiff's costs and expenses total **\$50,665.72** (through June 3, 2022). The costs and expenses charged in this Case are costs and expenses normally charged to fee-paying clients for disputes pending in the Northern District. As such, Plaintiff seeks recovery of the same and as set forth in detail in **Exhibit "3-A"**.

Exhibits

32. Each exhibit attached hereto is a true and correct copy. I am a custodian of the records of Firm for the billing and cost and expense records for this Case. **Exhibit "3-A"** is a true and correct copy of the Firm's billing and expenses records up to and through June 3, 2022. These pages of records are and have been kept by Firm in the regular course of business, and, as to those documents prepared by or at the direction of Firm, it was the regular course of business of Firm for an employee or representative of Firm, with knowledge of the act or event recorded, to make the record or to transmit information thereof to be included in the record. These records were made at or near the time or reasonably soon thereafter. The records attached to this Declaration are the original or exact duplicates of the originals.

Conclusion

33. Plaintiff seeks recovery of attorneys' fees through June 3, 2022 totaling **\$1,004,501.25**, additional attorneys' fees following June 3, 2022 totaling **\$9,900.00**, conditional/contingent appellate attorneys' fees in the amount of **\$250,000.00** if there is an appeal to the Fifth Circuit and **\$350,000.00** if there is an appeal to the United States Supreme Court, and costs and expenses totaling **\$50,665.72** as of June 3, 2022.

This Declaration is based on my own personal knowledge and is true and correct. I am fully competent to give this Declaration testimony. Executed on June 3, 2022.



Christian Dennie, Declarant

EXHIBIT 3-A

Fees as of 6/3/2022

Michael Cloud

Michael Cloud v. Bert Bell/Pete Rozelle NFL Players Retirement Plan

Professional Fees		Hours	Rate	Amount
Attorneys				
05/11/2020 CSD	Review of documents provided by Mr. Cloud; Multiple emails with Mr. Cloud discussing claims to be asserted; Multiple telephone calls with Mr. Cloud discussing the same.	6.50	495.00	3,217.50
05/12/2020 CSD	Conducted legal research on claims under ERISA for failure to provide benefits and failure to provide and review medical documentation.	6.00	495.00	2,970.00
05/13/2020 CSD	Started drafting Original Complaint; Multiple calls with Mr. Cloud discussing facutal assertions; Multiple emails with Mr. Cloud discussing factual assertions.	7.00	495.00	3,465.00
05/14/2020 CSD	Continued working on and drafting Original Complaint; Multiple calls with Mr. Cloud discussing the same.	5.00	495.00	2,475.00
05/15/2020 CSD	Continued working on and finalized Original Complaint; Emails with Mr. Cloud approving the same; Call with Mr. Cloud discussing filing of Original Complaint.	7.25	495.00	3,588.75
05/20/2020 CSD	Emails with Mr. Cloud discussing likely arguments to by made by Defendant; Review of additional documents provided by client.	0.50	495.00	247.50
05/26/2020 CSD	Review of additional documents provided by client.	0.50	495.00	247.50
05/27/2020 CSD	Review of letter from opposing counsel; Multiple emails with opposing counsel.	0.50	495.00	247.50
06/01/2020 CSD	Conducted legal research on whether a jury trial can occur on an ERISA claim; Call with Mr. Junk, opposing counsel, discussing the case; Emails with client discussing the same.	0.75	495.00	371.25

06/03/2020 CSD	Multiple emails with client; Review of documents provided.	0.75	495.00	371.25
06/05/2020 CSD	Review of research relating to concussions and symptoms arising therefrom; Review of letter from opposing counsel; Multiple emails with client.	0.75	495.00	371.25
06/08/2020 CSD	Call with Dr. Wu; Call with Mr. Cloud; Additional research on jury demand in ERISA cases.	2.25	495.00	1,113.75
06/09/2020 CSD	Review of literature and documentation of DTI and PET scans and exams.	0.75	495.00	371.25
06/10/2020 CSD	Review of Motion to Dismiss and Motion to Strike.	0.50	495.00	247.50
06/15/2020 CSD	Call with Mr. Cloud discussing Dr. Wu and additional information needed.	0.50	495.00	247.50
06/16/2020 CSD	Research on ERISA standards in the 5th Circuit.	1.00	495.00	495.00
06/18/2020 CSD	Review of each and every case cited by Defendant in its Motion to Strike and Motion to Dismiss; Conducted independent research.	4.00	495.00	1,980.00
06/19/2020 CSD	Multiple calls with Mr. Cloud discussing Motion to Strike and Motion to Dismiss; Research in preparation for response to Motion to Dismiss; Started working on and drafting a response to the Motion to Dismiss.	0.25	495.00	123.75
06/22/2020 CSD	Research on Section 1133 of ERISA; Continued working on and drafting response to Motion to Dismiss.	5.00	495.00	2,475.00
06/23/2020 CSD	Review medical summary and additional medical documents provided by client.	0.75	495.00	371.25
06/24/2020 CSD	Continued working on response to Motion to Dismiss; Review of letter from opposing counsel; Emails with opposing counsel.	1.00	495.00	495.00
06/25/2020 CSD	Multiple emails and communications with Mr. Cloud; Review of medical summary; Review of documents submitted by Mr. Cloud and his representatives requesting records from the Retirement Plan.	1.25	495.00	618.75
06/26/2020 CSD	Multiple calls with Mr. Cloud regarding concussion during his football playing career; Continued research on scholarly articles and studies on concussion symptoms and protocols.	0.75	495.00	371.25

06/30/2020 CSD	Continued working on response to Motion to Dismiss.	0.50	495.00	247.50
07/01/2020 CSD	Finalized response to Motion to Dismiss; Call with Mr. Cloud discussing potential expert neurologists; Call with Dr. Wu; Review of PET Scan results and MRI results.	1.50	495.00	742.50
07/02/2020 CSD	Call with Judge Brown discussing her uncle who played in the NFL and possible recusal; Call with Mr. Cloud discussing possible recusal and agreeing not to seek recusal.	0.50	495.00	247.50
07/09/2020 CSD	Communications and calls with Mr. Cloud; Conducted additional research on concussion protocols; Continued review of PET Scan results and MRI results; Call with Dr. Wu discussing reports and analysis.	2.75	495.00	1,361.25
07/10/2020 CSD	Multiple calls with potential experts; Review of new <i>Cason</i> ERISA case involving retired NFL players and reductions to disability benefits.	0.50	495.00	247.50
07/13/2020 CSD	Review of Reply Brief in Support of Motion to Dismiss.	0.50	495.00	247.50
07/15/2020 CSD	Call with Dr. Hurlbut's office discussing examination of Mr. Cloud.	0.25	495.00	123.75
07/16/2020 CSD	Call with Mr. Cloud regarding Dr. Hurlbut as a potential expert neurologist.	0.50	495.00	247.50
07/24/2020 CSD	Review of report of Dr. Anne Smith.	0.50	495.00	247.50
08/07/2020 CSD	Review of pleading in other cases involving Defendant including numerous federal court filings and decisions.	2.75	495.00	1,361.25
08/14/2020 CSD	Emails with Mr. Cloud regarding medical documents.	0.25	495.00	123.75
09/11/2020 CSD	Call with Mr. Cloud discussing other cases involving Defendant and strategy relating thereto.	0.50	495.00	247.50
09/22/2020 CSD	Review of Status Report Order; Emails with opposing counsel to set up status conference call.	0.50	495.00	247.50
09/28/2020 CSD	Emails with Mr. Cloud discussing status report and information set forth therein; Drafted Proposed Joint Status Report.	1.00	495.00	495.00

09/29/2020 CSD	Emails with Mr. Cloud regarding medical information; Call with Mr. Junk discussing Joint Status Report.	0.50	495.00	247.50
10/01/2020 CSD	Drafted additions to the Joint Status Report; Research for matters to be included in the Joint Status Report.	0.75	495.00	371.25
10/02/2020 CSD	Finalized Joint Status Report.	0.50	495.00	247.50
10/15/2020 CSD	Multiple calls with Mr. Cloud likely trial timeline and informatio needed to move forward	1.00	495.00	495.00
10/20/2020 CSD	Worked on responses to Initial Disclosures.	0.50	495.00	247.50
10/22/2020 CSD	Review of documents produced in response to Initial Disclosures; Review of Defendant's Initial Disclosure.	2.25	495.00	1,113.75
10/28/2020 CSD	Review of emails from Mr. Cloud regarding individuals with knowledge of relevant facts; Call with Mr. Cloud discussing the same and discovery.	0.50	495.00	247.50
10/29/2020 CSD	Drafted Request for Production and First Set of Interrogatories; Emailed the same to Mr. Cloud for review.	2.75	495.00	1,361.25
11/06/2020 CSD	Review of approximately 2,000 pages of records produced by Defendant.	4.00	495.00	1,980.00
11/13/2020 CSD	Review of Mr. Cloud's suggestions for Interrogatories and Request for Production; Drafted additions to First Set of Interrogatories and Request for Production.	1.50	495.00	742.50
11/20/2020 CSD	Drafted additions to Request for Production and First Set of Interrogatories.	0.50	495.00	247.50
12/14/2020 CSD	Call with Mr. Junk discussing discovery and his likely objections.	0.50	495.00	247.50
12/15/2020 CSD	Call with Mr. Cloud discussing documents produced by Defendant and objections.	0.25	495.00	123.75
12/17/2020 CSD	Call with Mr. Cloud discussing discovery issues.	0.25	495.00	123.75

12/21/2020 CSD	Review of scheduling order.	0.25	495.00	123.75
01/08/2021 CSD	Review of filing of the administrative record.	0.50	495.00	247.50
01/14/2021 CSD	Drafted Responses to Interrogatories.	1.50	495.00	742.50
01/18/2021 CSD	Continued working on responses to Interrogatories.	0.50	495.00	247.50
01/25/2021 CSD	Emails with Mr. Cloud regarding deadline to amend pleadings.	0.25	495.00	123.75
01/28/2021 CSD	Emails with Mr. Cloud regarding joinder; Call with Mr. Cloud indicating joinder of additional parties is unnecessary.	0.25	495.00	123.75
02/01/2021 CSD	Multiple emails with Mr. Cloud discussing his questions regarding the Original Complaint and transfer of judges.	0.25	495.00	123.75
02/02/2021 CSD	Emails with Mr. Cloud regarding change of judge.	0.25	495.00	123.75
02/04/2021 CSD	Review of order on status conference; Email to Mr. Cloud.	0.25	495.00	123.75
02/08/2021 CSD	Attended status conference; Emails with Mr. Cloud regarding the status conference.	1.25	495.00	618.75
02/11/2021 CSD	Call with Mr. Junk regarding new scheduling order.	0.25	495.00	123.75
02/17/2021 CSD	Review of and made changes to proposed scheduling order; Multiple emails with client; Email to client.	0.75	495.00	371.25
02/18/2021 CSD	Emails with opposing counsel regarding scheduling order; Review of Order on Motion to Strike and Motion to Dismiss; Emails with client.	0.50	495.00	247.50
02/24/2021 CSD	Multiple emails with opposing counsel; Multiple drafts of scheduling order; Call with Mr. Cloud confirming trial date on December 6, 2021.	0.50	495.00	247.50

02/25/2021 CSD	Review of Original Answer.	0.50	495.00	247.50
02/26/2021 CSD	Review of Scheduling Order and review of Mediation Order; Email the same to Mr. Cloud.	0.25	495.00	123.75
03/30/2021 CSD	Emails with Mr. Cloud discussing it is unlikely the Defendant will voluntarily mediate; Emails with opposing counsel regarding mediation.	0.50	495.00	247.50
03/31/2021 CSD	Emails with client and opposing counsel regarding mediation.	0.25	495.00	123.75
04/01/2021 CSD	Emails with Mr. Cloud regarding mediation.	0.25	495.00	123.75
04/02/2021 CSD	Call with Mr. Junk discussing mediation.	0.25	495.00	123.75
04/07/2021 CSD	Emails with Mr. Cloud regarding documents and strategy moving forward including likelihood that this case will not resolve and will present to trial.	0.25	495.00	123.75
04/13/2021 CSD	Call with Dr. Wu discussing medical protocols, concussion symptoms, second impact syndrome, and other matters; Meeting with client discussing mediation, experts, and discovery.	1.25	495.00	618.75
04/14/2021 CSD	Review of research on standards for experts in ERISA cases.	1.75	495.00	866.25
04/26/2021 CSD	Review of recent case law provided by Mr. Cloud regarding the Plan.	0.50	495.00	247.50
04/27/2021 CSD	Numerous communications with Mr. Cloud; Conducted research and reviewed information provided by Mr. Cloud.	1.50	495.00	742.50
04/28/2021 CSD	Received call from Jennifer Cloud discussing the case; Call with Mr. Cloud discussing call with Jennifer Cloud.	0.50	495.00	247.50
04/29/2021 CSD	Multiple communications with Mr. Cloud; Call with Mr. Cloud; Drafted Expert designations; Drafted Second Request for Production; Drafted First Supplemental Initial Disclosures.	3.00	495.00	1,485.00
05/03/2021 CSD	Multiple emails with client; Prepared and Finalized Expert Designations; Prepared and Finalized Second Request for Production; Prepared and Finalized Supplemental Disclosures; Compiled reports for production.	2.50	495.00	1,237.50

05/11/2021 CSD	Emails with Mr. Cloud discussing his request to subpoena Jennifer Cloud.	0.25	495.00	123.75
05/12/2021 CSD	Call with Ms. Rankin regarding contact and communications from Mr. Cloud.	0.25	495.00	123.75
05/13/2021 CSD	Long call with Mr. Cloud discussing his conduct and communications with Ms. Rankin and advising against making comments to third-parties about Ms. Rankin in light of potential criminal investigation for harassment.	1.50	495.00	742.50
06/01/2021 CSD	Review of Responses to Second Request for Production and associated documents.	0.50	495.00	247.50
06/11/2021 CSD	Review of Supplemental Documents; Drafted Motion to Supplement Administrative Record.	3.50	495.00	1,732.50
06/21/2021 CSD	Multiple calls and emails with Mr. Cloud discussing supplementation of the administrative record.	1.00	495.00	495.00
06/24/2021 CSD	Multiple emails with opposing counsel regarding discovery.	0.25	495.00	123.75
06/30/2021 CSD	Review of Response to Motion to Supplemental Administrative Record and associated case law; Review of Motion for Protective Order.	2.00	495.00	990.00
07/01/2021 CSD	Drafted Reply in Support of Motion to Supplement Administrative Record and prepared Appendix.	6.00	495.00	2,970.00
07/02/2021 CSD	Review of Objection to Certificate of Conference.	0.25	495.00	123.75
07/06/2021 CSD	Conducted legal research on disputed discovery and supplementation of the administrative record; Drafted Response to Motion for Protective Order.	4.00	495.00	1,980.00
07/07/2021 CSD	Finalized Response to Motion for Protective Order and filed the same.	0.50	495.00	247.50
07/21/2021 CSD	Multiple emails with Mr. Cloud; Review of Reply in Support of Motion to Quash and Appendix; Emails with Mr. Junk regarding outstanding documents.	0.50	495.00	247.50
07/22/2021 CSD	Review of Order on Motion to Quash; Review of Order on Motion to Supplement Administrative Record; Emails with opposing counsel regarding deposition dates.	0.50	495.00	247.50

07/23/2021 CSD	Prepared responses to Request for Production; Call with client discussing depositions and mediation.	0.75	495.00	371.25
07/26/2021 CSD	Call with opposing counsel regarding disputed discovery and depositions; Drafted list of corporate representative topics in accordance with Rule 30(b) (6); Emails with client regarding discovery; Multiple emails with opposing counsel regarding discovery.	2.75	495.00	1,361.25
07/27/2021 CSD	Emails with opposing counsel regarding discovery and depositions.	0.25	495.00	123.75
07/28/2021 CSD	Prepared Notice of Deposition for Ms. Smith; Prepared Notice of Deposition for Mr. Reynolds; Call with Mr. Cloud discussing depositions and outstanding documents; Emails with opposing counsel regarding outstanding discovery; Conducted legal research on documents to be produced under ERISA standards in the Fifth Circuit; Started preparing for the deposition of Ms. Smith and Mr. Reynolds.	3.00	495.00	1,485.00
07/29/2021 CSD	Preparation for depositions of Chris Smith and Patrick Reynolds; Review numerous medical studies on neurological and orthopedic injuries commonly associated with NFL players; Conducted research on Ms. Smith and Mr. Reynolds; Conducted research on the Disability Initial Claims Committee; Conducted research on the Retirement Board.	9.25	495.00	4,578.75
07/30/2021 CSD	Call with Judge Ferguson in which he indicated that Defendant will make no offer of resolution at mediation and, thus, he will inform the Court requesting that mediation be removed from the order; Multiple emails with Mr. Junk; Long conference call with opposing counsel regarding 30(b)(6) topics.	2.25	495.00	1,113.75
08/02/2021 CSD	Drafted letter in response to letter from Mr. Junk requesting additional information about 30(b)(6) topics; Review of Mr. Junk's responsive letter.	2.00	495.00	990.00
08/03/2021 CSD	Travel to Washington DC for the depositions of Patrick Reynolds and Chris Smith; Final preparations for depositions.	5.00	495.00	2,475.00
08/04/2021 CSD	Conducted the deposition of Patrick Reynolds; Meeting with client discussing the deposition to debrief about the same.	11.00	495.00	5,445.00
08/05/2021 CSD	Conducted the deposition of Chris Smith (on a break during the deposition -- Mr. Meehan referred to me as an "opportunistic prick" who is "trying to make a name for yourself" after questioning Ms. Smith about Dave Duerson); Meeting with Mr. Meehan following the deposition of Ms. Smith to determine whether resolution was possible in light of the favorable testimony provided by Mr. Reynolds and Ms. Smith over the last two days; Meeting with client discussing the deposition to debrief about the same; Traveled back to Dallas/Fort Worth.	15.00	495.00	7,425.00
08/06/2021 CSD	Emails with opposing counsel regarding outstanding discovery and other matters; Started drafting Emergency Motion to Compel.	1.25	495.00	618.75
08/07/2021 CSD	Continued Emergency Motion to Compel and compiled associated exhibits.	4.50	495.00	2,227.50
08/08/2021 CSD	Finalized drafting the Emergency Motion to Compel; Call with Ms. Rankin discussing testimony of Ms. Cloud at upcoming hearings and in motion practice.	1.25	495.00	618.75

08/09/2021 CSD	Preparation for the deposition of Sam Vincent including research on the Plan and Mr. Vincent.	4.50	495.00	2,227.50
08/10/2021 CSD	Conducted the deposition of Sam Vincent; Call with Mr. Cloud discussing the same.	11.50	495.00	5,692.50
08/11/2021 CSD	Email to opposing counsel requesting conference on outstanding documents and information; Call with Mr. Cloud discussing multiple case matters; Conducted legal research on mailbox rule in ERISA cases.	2.50	495.00	1,237.50
08/12/2021 CSD	Call with Dr. Wu discussing explanation of medical terminology and protocols for concussions and traumatic brain injuries.	0.50	495.00	247.50
08/13/2021 CSD	Multiple emails with Mr. Meehan discussing disputed discovery; Zoom conference with Ms. Rankin and Ms. Cloud.	1.75	495.00	866.25
08/16/2021 CSD	Emails with Mr. Cloud; Meeting with Mr. Vitanza; Review of Dr. Hurlbut's records.	2.75	495.00	1,361.25
08/17/2021 CSD	Review of Motion for Summary Judgment and exhibits; Review of case law cited by Defendant in its Motion for Summary Judgment; Review of Response to Motion to Compel and exhibits; Call with Mr. Cloud discussing the same.	6.00	495.00	2,970.00
08/17/2021 CSD	Call with Dr. Wu discussing arguments made by Defendant relating to timing of injury and his analysis of Mr. Cloud's brain injuries.	0.75	495.00	371.25
08/18/2021 CSD	Long call with Mr. Meehan regarding outstanding issues, discovery, and possibility of resolution; Review of Dr. Nelson's Report; Multiple emails with Mr. Meehan; Review of Order from Court regarding mediation; Call with Mr. Cloud; Review of the deposition of Mr. Vincent.	7.00	495.00	3,465.00
08/19/2021 CSD	Review of the depositions of Patrick Reynolds and Chris Smith; Prepared memorandum of notes from depositions of Sam Vincent, Patrick Reynolds, and Chris Smith; Drafted Reply in Support of Emergency Motion to Compel; Compiled appendix in support of Reply in Support of Emergency Motion to Compel.	13.00	495.00	6,435.00
08/20/2021 CSD	Call with Mr. Rankin discussing possibility of Ms. Cloud serving as a witness; Call with Mr. Cloud discussing the same; Worked on and finalized the Reply in Support of Emergency Motion to Compel.	2.00	495.00	990.00
08/24/2021 CSD	Multiple emails and messages with Mr. Cloud; Call with Dr. Wu; Multiple calls with Mr. Cloud; Call with Ms. Rankin; Preparation for Hearing on Emergency Motion to Compel including review of case law, pleadings, and documents.	6.50	495.00	3,217.50
08/24/2021 CSD	Review of 4th Supplemental Responses to Initial Disclosures; Review of game film from injury; Continued review of case law in preparation for hearing on Emergency Motion to Compel.	2.50	495.00	1,237.50
08/25/2021 CSD	Final preparation; Travel to and from federal courthouse; Attended the hearing on Emergency Motion to Compel.	5.50	495.00	2,722.50

08/26/2021 CSD	Call with Mr. Cloud discussing hearing on Emergency Motion to Compel, amending the pleadings, disqualification, and other matters.	0.50	495.00	247.50
08/27/2021 CSD	Review of records from the New England Patriots; Drafted First Amended Complaint.	4.50	495.00	2,227.50
08/30/2021 CSD	Review of Motion to Disqualify; Drafted Motion for Leave.	2.50	495.00	1,237.50
08/31/2021 CSD	Worked on and drafted First Amended Complaint; Worked on and drafted Motion for Leave; Worked on and drafted Motion to Disqualify.	3.75	495.00	1,856.25
09/02/2021 CSD	Worked on Motion to Disqualify and associated appendix.	2.00	495.00	990.00
09/03/2021 CSD	Review of memo to address certain causes of action under ERISA and potential violations of ERISA regulations; Conducted additional legal research on discovery matters.	2.50	495.00	1,237.50
09/07/2021 CSD	Conducted legal research on Vega and Crosby standards; Drafted Supplemental Brief in Support of Motion to Compel; Pulled deposition excerpts; Emails with client.	10.00	495.00	4,950.00
09/08/2021 CSD	Worked on appendix for supplemental briefing; Continued working on Supplemental Brief in Support of Emergency Motion to Compel.	2.00	495.00	990.00
09/10/2021 CSD	Finalized Supplemental Brief in Support of Emergency Motion to Compel.	0.50	495.00	247.50
09/14/2021 CSD	Review of Defendant's Supplemental Brief in Response to Emergency Motion to Compel.	1.00	495.00	495.00
09/22/2021 CSD	Review of Response to Motion for Leave and Appendix; Started reviewing hearing transcript from hearing on August 25, 2021.	1.50	495.00	742.50
09/23/2021 CSD	Conducted legal research necessary to draft reply in support of motion for leave; Drafted reply in support of motion for leave.	8.00	495.00	3,960.00
09/24/2021 CSD	Review of Response to Motion to Disqualify and Appendix; Finalized Reply in Support of Motion for Leave.	3.50	495.00	1,732.50
09/28/2021 CSD	Prepared and sent subpoena to the National Football League; Email to opposing counsel requesting depositions of Groom Law attorneys.	0.50	495.00	247.50

09/29/2021 CSD	Conference with Mr. Vitanza regarding disqualification of the Groom Firm.	0.50	495.00	247.50
09/30/2021 CSD	Review of Order on Motion to Compel; Worked on Reply in Support of Motion for Disqualification.	1.50	495.00	742.50
10/01/2021 CSD	Review of Order on Motion to Compel for any information to be added to Reply in Support of Motion to Disqualify; Continued review of case law and drafting Reply in Support of Motion to Disqualify; Call with Mr. Meehan regarding discovery, status of the case, his argument that there is no chance of success for Plaintiff, and likelihood that Plaintiff and I will pay Defendant's legal fees; Multiple emails with client.	5.50	495.00	2,722.50
10/05/2021 CSD	Review of Motion for Leave to File Sur-Reply; Review of Sur-Reply; Multiple emails with Mr. Cloud; Call with Mr. Meehan regarding exchange of discovery information.	1.50	495.00	742.50
10/08/2021 CSD	Emails with opposing counsel regarding document production and protective order; Review of proposed protective order; Review of Order on Motion to Disqualify.	1.25	495.00	618.75
10/11/2021 CSD	Multiple emails with opposing counsel regarding production of documetns and deposition dates.	0.50	495.00	247.50
10/12/2021 CSD	Call with Mr. Meehan discussing production of documents and information and protective order and his assertiosn that Plaintiff will never prevail and will ultimate pay Defendant's attorney's fees; Drafted changes to the protective order; Multiple emails with opposing counsel regarding discovery and protective order.	1.25	495.00	618.75
10/13/2021 CSD	Numerous emails back and forth with opposing counsel regarding missing discovery documents and deposition dates; Review of letter from Mr. Junk regarding discovery.	1.25	495.00	618.75
10/14/2021 CSD	Started reviewing documents submitted; Multiple calls with Mr. Meehan regarding disputed discovery items and discussing the language of the order requiring production; Telephonic hearing with the Court regarding disputed and outstanding discovery.	3.50	495.00	1,732.50
10/15/2021 CSD	Multiple emails with opposing counsel regarding production of documents and information in light of the Court's ruling at the October 14, 2021 and discussing deposition schedule.	0.50	495.00	247.50
10/16/2021 CSD	Continued review of documents produced by Defendant pertaining to reclassification decisions.	2.50	495.00	1,237.50
10/18/2021 CSD	Review of documents submitted; Call with opposing counsel regarding depositions and production of documents; Multiple emails with opposing counsel.	2.50	495.00	1,237.50
10/19/2021 CSD	Emails with client regarding depositions and discovery; Emails with Mr. Meehan and Mr. Junk regarding discovery and requesting production of certain documents; Review of letter from Ms.Eisenstein regarding NFL subpoena.	0.75	495.00	371.25
10/20/2021 CSD	Emails with opposing counsel regarding deposition schedule and production of documents; Call with Ms. Eisenstein regarding NFL subpoena and access to EMR repository; Review of thousands of pages of documents produced by Defendant relating to database, Director's Report, and Active Football benefits decision letters.	0.25	495.00	123.75

10/21/2021 CSD	Review of additional documents produced by Defendant including case summary documents; Call with Dr. Wu.	1.50	495.00	742.50
10/22/2021 CSD	Prepared Deposition Notice of Dick Cass with subpoena duces tecum; Prepared Deposition Notice of Robert Smith with subpoena duces tecum; Review of thousands of pages of records produced by Defendant; Preparation for board member depositions.	7.50	495.00	3,712.50
10/25/2021 CSD	Review of documents; Continued preparation for upcoming depositions; Multiple emails with opposing counsel regarding discovery.	1.25	495.00	618.75
10/26/2021 CSD	Drafted Stipulation to extend deadline to respond to Motion to Dismiss; Email to opposing counsel.	0.25	495.00	123.75
10/27/2021 CSD	Long call with Mr. Cloud discussing discovery and likelihood of trial; Conducted legal research for certain ERISA standards to be addressed with Board members in depositions; Emails with opposing counsel regarding Mr. Cloud's deposition; Final preparation for the deposition of Dick Cass.	5.50	495.00	2,722.50
10/28/2021 CSD	Traveled to and from the deposition of Dick Cass; Deposed Dick Cass; Call with Mr. Cloud discussing the deposition of Dick Cass.	9.00	495.00	4,455.00
10/29/2021 CSD	Review of Letter from Stacey Eisenstein regarding NFL subpoena; Multiple emails with opposing counsel regarding Motion for Leave and additional discovery; Drafted Third Request for Production; Drafted Motion for Leave.	1.50	495.00	742.50
11/01/2021 CSD	Numerous emails with opposing counsel regarding discovery and depositions; Multiple attempts to contact Mr. Cloud.	0.75	495.00	371.25
11/02/2021 CSD	Conducted deposition of Robert Smith; Meeting with Mr. Meehan in which he indicated that he realized that I was able to get Mr. Smith to provide a favorable date for "shortly after" (by January 1, 2007), but said "we will get that changed"; Drove Mr. Meehan to the airport from the Sheraton in Arlington, Texas; Call with Mr. Cloud discussing the deposition.	8.00	495.00	3,960.00
11/03/2021 CSD	Multiple emails with Mr. Meehan regarding document subpoena for the NFLPA and deposition of Mr. Cloud.	0.50	495.00	247.50
11/04/2021 CSD	Review of Defendant's Motion for Leave; Review of Response to Third Request for Production; Review of Response to Motion for Leave to Obtain Additional Request for Production; Email to Court indicating judicial intervention is unnecessary in light of response to Third Request for Production; Emails with Mr. Meehan regarding Mr. Cloud's deposition.	0.25	495.00	123.75
11/05/2021 CSD	Review of Order on Deposition.	0.25	495.00	123.75
11/08/2021 CSD	Review of documents and information provided by client in an email regarding social security filings and disability filings.	0.50	495.00	247.50
11/09/2021 CSD	Worked on Response to Second Motion to Dismiss and Motion to Strike Jury Demand.	2.50	495.00	1,237.50

11/11/2021 CSD	Emails with opposing counserl regarding deposition of Jennifer Cloud; Review of letter from Mr. Junk regarding discovery; Call with Mr. Cloud discussing multiple matters.	1.00	495.00	495.00
11/12/2021 CSD	Call with Mr. Cloud in preparation for deposition.	1.25	495.00	618.75
11/15/2021 CSD	Worked on and prepared subpoena to NFLPA; Call with Mr. Cloud regarding information needed to supplement discovery.	1.00	495.00	495.00
11/16/2021 CSD	Worked on Supplemental Responses to Request for Production; Produced additional documents.	1.50	495.00	742.50
11/17/2021 CSD	Traveled to Providence, Rhode Island; Meeting with Mr. Cloud in preparation for deposition.	8.00	495.00	3,960.00
11/18/2021 CSD	Meeting with Mr. Cloud in advance of his deposition; Attended and defended deposition of Mr. Cloud; Return travel to Dallas/Fort Worth.	18.00	495.00	8,910.00
11/19/2021 CSD	Multiple emails from Mr. Junk regarding discovery issues.	0.25	495.00	123.75
11/22/2021 CSD	Multiple emails with opposing counsel regarding deposition of Jennifer Cloud; Call with Ms. Rankin.	0.75	495.00	371.25
11/23/2021 CSD	Review of letter from Mr. Junk indicating alleged discovery deficiencies; Review of all documents produced in this case; Drafted Second Supplemental Responses to Request for Production; Drafted Amended Answers to First Set of Interrogatories; Multiple calls with Mr. Cloud; Numerous emails with opposing counsel regarding discovery and deposition of Jennifer Cloud; Call with Mr. Feisnrod.	6.25	495.00	3,093.75
11/24/2021 CSD	Email with opposing counsel regarding deposition of Jennifer Cloud on December 2, 2021.	0.25	495.00	123.75
11/28/2021 CSD	Review of Reply Brief in Support of Motion to Dismiss.	0.50	495.00	247.50
11/29/2021 CSD	Multiple emails with client discussing upcoming deposition of Jennifer Cloud; Call with Mr. Waldhauser regarding subpoena.	0.50	495.00	247.50
12/01/2021 CSD	Preparation for the deposition of Jennifer Cloud; Review of supplemental documents produced by Defendant; Call with Mr. Cloud regarding deposition of Jennifer Cloud.	3.50	495.00	1,732.50
12/02/2021 CSD	Travel to and from Rockwall, Texas; Attended the deposition of Jennifer Cloud; Call with Mr. Cloud discussing the deposition.	6.50	495.00	3,217.50

12/03/2021 CSD	Review of documents provided by Mr. Cloud; Emails with Mr. Cloud.	0.25	495.00	123.75
12/07/2021 CSD	Started reviewing Mr. Cloud's deposition transcript; Review of Robert Smith's errata with substantive changes; Emails with opposing counsel regarding substantive changes to Robert Smith's deposition testimony.	2.00	495.00	990.00
12/08/2021 CSD	Review of records for the purposes of preparing Motion to Supplement the Administrative Record; Drafted Motion to Supplement the Administrative Record; Review of letter from lawyer from the NFLPA; Email to opposing counsel providing documents to be supplement administrative record.	5.00	495.00	2,475.00
12/09/2021 CSD	Research on substantive changes to deposition testimony on errata sheet; Completed review of Mr. Cloud's deposition transcript.	3.00	495.00	1,485.00
12/10/2021 CSD	Continued conducted legal research on substantive changes to a deposition; Prepared Objections to and Motion to Strike Errata Sheet from Deposition of Robert Smith; Compiled exhibits.	5.00	495.00	2,475.00
12/13/2021 CSD	Finalized Motion to Strike Errata Sheet of Robert Smith; Email to Mr. Junk providing additional details for supplementation of administrative record.	0.75	495.00	371.25
12/14/2021 CSD	Call with Dr. Wu regarding his review of all of the evidence to date and all of the deposition testimony to date; Emails with opposing counsel.	0.75	495.00	371.25
12/16/2021 CSD	Worked on and drafted Motion to Enforce or, alternatively, Motion for Leave to Subpoena NFLPA; Worked on and drafted Motion to Supplement Administrative Record.	2.50	495.00	1,237.50
12/21/2021 CSD	Letter to court and opposing counsel regarding sealed confidential documents submitted with Motion to Supplement Administrative Record.	0.25	495.00	123.75
12/22/2021 CSD	Numerous emails with opposing counsel; Call with chambers of the court regarding filing of appendix vs. sending the same on a thumbdrive in light of differences in local rules and court order; Worked on appendix to Motion to Supplement Administrative Record.	2.50	495.00	1,237.50
12/23/2021 CSD	Drafted Reply in Support of Motion to Enforce Subpoena or Motion for Leave.	1.00	495.00	495.00
12/29/2021 CSD	Review of Order on Motion for Leave to issue subpoena; Multiple emails with opposing counsel regarding mediation; Review of Second Amended Scheduling Order; Review of Response to Motion to Strike Errata.	1.75	495.00	866.25
01/04/2022 CSD	Emails with lawyers for the NFLPA regarding production of records electronically in response to subpoena.	0.25	495.00	123.75
01/05/2022 CSD	Emails with opposing counsel; Call with Judge Ferguson regarding mediation dates and procedures.	0.75	495.00	371.25

01/07/2022 CSD	Emails with Judge Furgeson regarding mediation; Review of Third-Party Production from Mr. Cousineau.	2.00	495.00	990.00
01/08/2022 CSD	Review of medical documents and associated information; Review of Plan provisions pertaining to total and permanent disability; Long call with Dr. Wu discussing his analysis and conclusions after reviewing thousands of pages of records, multiple depositions, and pleadings.	1.75	495.00	866.25
01/10/2022 CSD	Call with Judge Furgeson in which he indicated Defendant will not make an offer of settlement at mediation despite indicating that the entire Board will be present; Long call with Mr. Cloud discussing the Defendant's position on mediation; Intrafirm communications with Mr. Vitanza discussing dispositive motion.	3.25	495.00	1,608.75
01/12/2022 CSD	Call with Dr. Wu; Review of medical documents produced in this case.	2.50	495.00	1,237.50
01/13/2022 CSD	Call with Dr. Wu; Emails with Judge Furgeson regarding Defendant's stance on the case and continued threats of sanctions against both me and Mr. Cloud.	0.75	495.00	371.25
01/14/2022 CSD	Drafted Supplemental Expert Disclosures; Multiple calls with Dr. Wu; Review of Dr. Wu's supplemental report; Review of NFLPA response to subpoena; Review of NFLPA documents; Review of Defendant's First Amended Answer.	4.25	495.00	2,103.75
01/17/2022 CSD	Review of "X-File" in preparation for motion for summary judgment; Communications with client regarding the same; Review of Response to Supplemental Motion Administrative Record.	2.50	495.00	1,237.50
01/18/2022 CSD	Call with Dr. Wu discussing medical analysis and further discussing expert conclusions to be used in dispositive motions.	0.25	495.00	123.75
01/19/2022 CSD	Drafted Supplemental Motion to Supplemental Administrative Record; Emails with Mr. Junk for the purposes of certificate of conference pertaining to Supplemental Motion to Supplemental Administrative Record; Drafted Reply in Support of Motion to Supplemental Administrative Record.	6.25	495.00	3,093.75
01/20/2022 CSD	Emails with opposing counsel regarding deposition of Dr. Wu and supplementation of administrative record; Call with Dr. Wu discussing deposition dates; Continued to work on Supplemental Motion to Supplement Administrative Record; Continued to work on Reply in Support of Motion to Supplement Administrative Record.	2.00	495.00	990.00
01/21/2022 CSD	Call with Dr. Wu regarding additional files and documents; Review of additional files and documents from Dr. Wu's files; Review of partial bates label documents.	1.50	495.00	742.50
01/22/2022 CSD	Worked on compiling documents for production; Review of Motion for Leave to Depose Dr. Wu; Emails with opposing counsel indicating Plaintiff never informed Defendant that he was unopposed to the relief sought and requesting that opposing counsel inform the court of the same.	2.00	495.00	990.00
01/23/2022 CSD	Email to Mr. Shaverdian indicating Plaintiff is opposed to the relief sought by Defendant to depose Dr. Wu.	0.25	495.00	123.75
01/24/2022 CSD	Review of certain records provided by Dr. Wu.	0.75	495.00	371.25

01/25/2022 CSD	Review of case file and pleadings to pull each and every objection to discovery filed and briefed by Defendant; Drafted response to Motion for Leave; Call with Dr. Wu; Continued review of Dr. Wu's files.	3.50	495.00	1,732.50
01/26/2022 CSD	Review of Reply in Support of Motion for Leave.	0.25	495.00	123.75
01/27/2022 CSD	Call with Mr. Cloud discussing multiple matters; Emails with opposing counsel regarding outstanding documents; Review of Court's Order on Motion for Leave to Depose Dr. Wu.	0.75	495.00	371.25
01/28/2022 CSD	Emails with opposing counsel regarding Dr. Wu's deposition; Review of Motion for Leave to extend discovery deadline for Dr. Wu's deposition; Call with Mr. Cloud.	0.75	495.00	371.25
01/29/2022 CSD	Review of electronic order on request to depose Dr. Wu after the conclusion of the discovery deadline; Emails with client discussing the same.	0.25	495.00	123.75
01/31/2022 CSD	Drafted letter to opposing counsel providing Dr. Wu's file with confidential designation; Short call with Dr. Wu.	0.50	495.00	247.50
02/01/2022 CSD	Multiple calls with Mr. Cloud discussing status of the case, upcoming deposition of Dr. Wu, and strategy; Conducted legal research; Call with Dr. Wu in preparation for deposition.	2.25	495.00	1,113.75
02/02/2022 CSD	Emails to opposing counsel discussing Dr. Wu's deposition; Call with Mr. Cloud discussing Dr. Wu's deposition and strategy for upcoming matters.	0.25	495.00	123.75
02/03/2022 CSD	Attended the deposition of Dr. Joseph Wu.	10.00	495.00	4,950.00
02/04/2022 CSD	Call with Dr. Wu discussing deposition testimony.	0.50	495.00	247.50
02/07/2022 CSD	Drafted Second Supplemental Motion to Supplement Administrative Record; Multiple emails with opposing counsel regarding the same.	0.75	495.00	371.25
02/08/2022 CSD	Review of letter from Mr. Junk regarding confidentiality designation and responded to the same; Communications with Judge Furgeson and Mr. Meehan regarding mediation.	0.50	495.00	247.50
02/09/2022 CSD	Emails with opposing counsel regarding mediation.	0.25	495.00	123.75
02/10/2022 CSD	Review of Dr. Wu's deposition transcripts; Call with Dr. Wu and provided deposition transcripts; Numerous emails with opposing counsel regarding problems with Dr. Wu's deposition transcript.	4.75	495.00	2,351.25

02/11/2022 CSD	Email with Dr. Wu providing updated Volume 1 and Volume 2 of his deposition; Review of modifications to Volume 1 and Volume 2.	1.25	495.00	618.75
02/14/2022 CSD	Drafted Motion for Leave; Drafted Third Supplemental Motion to Supplement Adminsitrative Record; Prepared Appendix in Support of Third Supplemental Motion to Supplement Adminsitrative Record.	4.25	495.00	2,103.75
02/14/2022 CSD	Review of Opposition to First and Second Supplemental Motions to Supplement Adminsitrative Record; Conducted legal research on citations set forth therein.	2.75	495.00	1,361.25
02/15/2022 CSD	Review of various orders issued by the court and requiring expedited briefing.	0.50	495.00	247.50
02/17/2022 CSD	Continued working on Reply in Support of First and Second Supplemental Motion to Supplement Adminsitrative Record.	1.50	495.00	742.50
02/18/2022 CSD	Drafted Reply in Support of First and Second Supplemental Motions to Supplement Adminsitrative Record.	5.25	495.00	2,598.75
02/21/2022 CSD	Review of approximately 3,000 pages of X-File production.	7.25	495.00	3,588.75
02/22/2022 CSD	Review of Defendant's Response to Third Supplemental Motion to Supplement the Adminstrative Record; Drafted Reply in Support of Third Supplemental Motion to Supplement the Adminstrative Record; Review of Court's Order granting supplementation as to Dr. Wu's documents and testimony, NFLPA documents, and decision letters, X-File, and summaries.	4.25	495.00	2,103.75
02/23/2022 CSD	Worked on and drafted Brief in Support of Motion for Judgment or, alternatively, Motion for Summary Judgment.	2.75	495.00	1,361.25
02/24/2022 CSD	Conducted legal research and reviewed documents in the record; Worked on and drafted Brief in Support of Motion for Judgment or, altneratively, Motion for Summary Judgment.	10.75	495.00	5,321.25
02/25/2022 CSD	Worked on and drafted Motion for Judgment or, alternatively, Motion for Summary Judgment; Worked on and drafted Appendix in Support of Motion for Judgment or, alternatively, Motion for Summary Judgment; Continued working on and drafted Brief in Support of Motion for Judgment or, altneratively, Motion for Summary Judgment.	10.50	495.00	5,197.50
02/26/2022 CSD	Continued work on Motion for Judgment or, alternatively, Motion for Summary Judgment; Continued work on Brief in Support of Motion for Judgment or, alternatively, Motion for Summary Judgment; Conducted legal research in support of dispositive motion.	2.00	495.00	990.00
02/27/2022 CSD	Continued work on Motion for Judgment or, alternatively, Motion for Summary Judgment, Brief in Support, and Appendix.	9.25	495.00	4,578.75
02/28/2022 CSD	Continued work on dispositive motion and brief in support; Review of appendix and documents provided therein; Emails with opposing counsel for the purposes of certificate of conference to file Motion for Leave; Worked on and drafted Motion to Leave to file over-legnth brief; Review of Defendant's Motion to Unseal Confidential Records.	7.50	495.00	3,712.50

03/01/2022 CSD	Meeting with Mr. Cloud discussing various briefing and motions filed and potential types of trials that could occur.	1.00	495.00	495.00
03/07/2022 CSD	Review of Motion to Remove Confidential Designation; Conducted legal research on confidential designations; Drafted Response to Motion to Remove Confidential Designation; Call with Dr. Wu discussing Daubert Motion and assertions made therein.	5.25	495.00	2,598.75
03/08/2022 CSD	Continued review of Motion in Limine to Exclude Plaintiff's Expert; Conducted legal research on Daubert Standard in the Fifth Circuit.	3.50	495.00	1,732.50
03/09/2022 CSD	Prepared cross examination of Dick Cass; Worked on video excerpts to be presented at trial; Review of documents and evidence in preparation for trial.	6.25	495.00	3,093.75
03/10/2022 CSD	Continued working on Response to Daubert Motion; Review of deposition testimony, expert reports, and documents; Conducted legal research on Daubert cases.	10.00	495.00	4,950.00
03/11/2022 CSD	Continued working on and drafting Response to Daubert Motion.	1.50	495.00	742.50
03/14/2022 CSD	Conducted research on Section 502(g)(1) of ERISA; Continued working on and drafting Response to Daubert motion.	2.50	495.00	1,237.50
03/15/2022 CSD	Call with Dr. Wu discussing his review of the Daubert Motion and his objections and desire to respond to Defendant's assertions and his specific objections; Drafted Declaration based on Dr. Wu's concerns; Call with Dr. Wu discussing Declaration in detail and confirming accuracy based on his objections and Defendant's false assertions.	2.50	495.00	1,237.50
03/17/2022 CSD	Worked on and finalized Response to Daubert Motion; Review of Defendant's Reply in support of motion to remove confidential designations; Call with Judge Ferguson regarding mediation and unlikely that it will occur in light of Defenant's position that it was not negotiate and will seek sanctions if Plaintiff does not dismiss this case; Worked on Response to Motion for Summary Judgment.	12.50	495.00	6,187.50
03/18/2022 CSD	Continued working on Response to Motion for Summary Judgment; Prepared Appendix in Support of Response to Motion for Summary Judgment.	5.00	495.00	2,475.00
03/21/2022 CSD	Conducted initial review of Defendant's Response to Motion for Judgment.	1.25	495.00	618.75
03/23/2022 CSD	Emails to Judge's law clerk indicated no opposition to Dkt. 184 correcting a typographical error.	0.25	495.00	123.75
03/25/2022 CSD	Review of Boyd v. Bert Bell and conducted research on 5th Circuit case law addressing the plain meaning of ERISA Plan documents; Zoom conference with Judge Ferguson and Mr. Cloud.	3.50	495.00	1,732.50
03/29/2022 CSD	Emails with opposing counsel regarding briefing extension.	0.25	495.00	123.75

04/04/2022 CSD	Call with Mr. Cloud in preparation for mediation; Prepared for mediation; Review of Defendant's Reply Brief in Support of Motion to Strike (Daubert Motion); Review of Defendant's Reply Brief in Support of Motion for Summary Judgment; Worked on and drafted Reply in Support of Motion for Judgment.	9.50	495.00	4,702.50
04/05/2022 CSD	Final meeting Mr. Cloud in preparation for mediation; Attended mediation; Email to law clerk to determine whether argument on outstanding motions is expected at status conference on April 11, 2022.	8.00	495.00	3,960.00
04/06/2022 CSD	Review of orders denying dispositive motions; Review of Third Amended Scheduling Order; Multiple calls with Mr. Cloud discussing the same and upcoming trial; Meeting with Mr. Vitanza discussing possibility of certain different types of trials.	1.50	495.00	742.50
04/07/2022 CSD	Meeting and discussion with Mr. Vitanza regarding trial and actions to be taken.	0.25	495.00	123.75
04/12/2022 CSD	Attended and took part in pre-trial conference; Multiple meetings with Mr. Vitanza in preparation for trial; Call with client discussing pre-trial conference.	4.50	495.00	2,227.50
04/12/2022 CSD	Review of documents, briefing, and court orders in preparation for pre-trial conference.	1.00	495.00	495.00
04/13/2022 CSD	Review deposition of Jennifer Cloud for the purposes of preparing page and line designations.	1.50	495.00	742.50
04/14/2022 CSD	Meeting with Mr. Vitanza and Ms. Burks discussing exhibits, witnesses, and legal arguments; Preparation for trial; Started reviewing the deposition of Dick Cass for page and line designations; Conference call with opposing counsel to confer on stipulations, witness testimony, and exhibits.	9.50	495.00	4,702.50
04/15/2022 CSD	Continued review of the deposition of Dick Cass for page and line designations; Review of the deposition of Robert Smith for page and line designations; Review of the deposition of Michael Cloud for page and line designations; Worked on Exhibit List; Worked on Witness List; Meeting with Mr. McIlwain regarding Findings of Fact and Conclusions of Law.	12.00	495.00	5,940.00
04/16/2022 CSD	Meetings with Mr. Vitanza and Mr. McIlwain for trial preparation; Review of documents for trial preparation; Review of the deposition of Chris Smith for preparation of deposition excerpts; Review of deposition of Patrick Reynolds for preparation of deposition excerpts.	9.50	495.00	4,702.50
04/17/2022 CSD	Trial preparation and review of documents for purposes of identifying exhibits; Review of deposition of Dr. Joseph Wu for page and line designations; Review of the deposition of Sam Vincent for page and line designations.	10.75	495.00	5,321.25
04/18/2022 CSD	Conducted legal research on standards for attorneys' fees under ERISA, the defendant's ability to recover attorneys' fees under ERISA, and the lodestar method in the Fifth Circuit; Drafted Declaration in support of attorneys' fees and costs under 1132(g)(1); Pre-trial conference call with Judge Gren Scholer; Reviewed and worked on Second Amended Complaint.	9.25	495.00	4,578.75
04/19/2022 CSD	Worked on and drafted Joint Pre-Trial Report; Worked on Findings of Fact and Conclusions of Law; Continued working on deposition page and line designations; Meeting with Mr. Vitanza, Mr. McIlwain, and Ms. Burks to discuss trial strategy and trial exhibits; Review of exhibits and worked on Exhibit List; Emails with opposing counsel regarding stipulations/uncontested facts; Review of proposed stipulations.	15.00	495.00	7,425.00
04/20/2022 CSD	Review of proposed stipulations; Worked on and drafted Second Amended Petition; Emails with opposing counsel regarding joint pre-trial report; Worked on and drafted joint pre-trial report; Worked on findings of fact and conclusions of law; Call with client discussing trial strategy; Prepared for trial.	15.00	495.00	7,425.00

04/21/2022 CSD	Review of Order on Daubert Motion; Review of attorney's fees statements and costs; Worked on Findings of Fact and Conclusions of Law; Review of Defendant's Findings of Fact and Conclusions of Law, Witness List, Exhibit List, Page and Line Designations; Drafted Motion for Leave to file Findings of Fact and Conclusions of Law; Preparation for trial.	15.00	495.00	7,425.00
04/22/2022 CSD	Review of multiple orders from the Court; Multiple emails with opposing counsel attempting to gather information on objections; Worked on and prepared exhibits; Multiple meetings with Mr. Vitanza discussing trial strategy; Worked on powerpoint presentation.	15.00	495.00	7,425.00
04/23/2022 CSD	Continued reviewing the evidence, preparing trial exhibits, and working on evidence presentation, opening statement, and closing argument.	15.00	495.00	7,425.00
04/24/2022 CSD	Worked on trial outline and review of hot docs; Started working on opening, evidence presentation, and closing argument; Prepared for trial.	15.00	495.00	7,425.00
04/25/2022 CSD	Worked on case powerpoint; Multiple meetings with Mr. Vitanza; Continued reviewing documents; Worked on Reply in Support of Motion for Leave; Worked on Objections to Defendant's exhibits.	15.00	495.00	7,425.00
04/26/2022 CSD	Continued trial preparation and review of documents and exhibits; Conference call with Court indicating COVID in the Court's chambers; Meeting with Mr. Cloud in preparation for trial testimony and upcoming trial.	4.00	495.00	1,980.00
04/27/2022 CSD	Review of Order on Motion for Leave; Review of Fourth Amended Scheduling Order; Continued working on powerpoint presentation; Emails with Judge's clerk regarding trial presentation, estimated time for trial presentation, and witnesses to be called.	2.00	495.00	990.00
04/28/2022 CSD	Conference call with the Court regarding upcoming trial and specific information about presentation of the case; Meeting with Mr. Vitanza discussing trial preparation and presentation of evidence.	1.00	495.00	495.00
04/29/2022 CSD	Continued review of documents and information in preparation for trial; Call with Mr. Cloud discussing trial dates and likely topics of testimony.	3.00	495.00	1,485.00
05/02/2022 CSD	Email to opposing counsel requesting date and time for meet and confer on objections and exhibits; Prepared trial cross examination questions for certain witnesses; Continued working on powerpoint presentation; Continued review of documents and exhibits for presentation at trial.	5.50	495.00	2,722.50
05/03/2022 CSD	Prepared cross examination of Dick Cass; Worked on video excerpts to be presented at trial; Review of documents and evidence in preparation for trial.	6.75	495.00	3,341.25
05/04/2022 CSD	Review of Answer to Second Amended Complaint; Review of counter-designations to depositions provided by Defendant; Started working on objections to counter-designations; Long call with Mr. Cloud; Review of documents to create hot documents; Reviewed deposition testimony.	7.25	495.00	3,588.75
05/05/2022 CSD	Long call with Mr. Cloud discussing likely trial testimony topics, deposition testimony of various witnesses, and certain documents to be used at trial; Reviewed and highlighted all hot documents to be used at trial; Conference with Mr. Vitanza about topics for cross examination.	5.25	495.00	2,598.75
05/06/2022 CSD	Reviewed excerpts deposition testimony of Ms. Cloud, Dr. Wu, Mr. Smith, and Mr. Cass; Meeting with Mr. Vitanza for trial preparation; Review of certain documents and exhibits in preparation for trial.	5.00	495.00	2,475.00

05/07/2022 CSD	Review of exhibits and key documents for presentation at trial; Worked on witness questions; Review of Plan provisions; Preparation for trial.	6.25	495.00	3,093.75
05/08/2022 CSD	Worked on and prepared arguments to be made at trial.	2.50	495.00	1,237.50
05/10/2022 CSD	Worked on depositions testimony to be used at trial; Email to opposing counsel in an attempt to resolve dispute pertaining to trial exhibits; Multiple conferences with Mr. Vitanza in preparation for trial; Continued preparation for trial.	5.50	495.00	2,722.50
05/11/2022 CSD	Continued to work on the identifying the "hot docs" for presentation at trial; Multiple emails with Mr. Meehan in an attempt to resolve disputes about trial exhibits; Worked on demonstrative aids for trial; Worked and reviewed various decision letters applying different standards for "changed circumstances"; Continued to prepare for trial.	11.25	495.00	5,568.75
05/12/2022 CSD	Worked on cross-examination questions; Emails with opposing counsel regarding trial exhibits; Review of letter from Mr. Knight; Continued preparing for trial.	6.50	495.00	3,217.50
05/13/2022 CSD	Call with Mr. Cloud discussing upcoming trial; Review of Defendant's declaration on attorney's fees; Continued working on case powerpoint; Trial preparation.	10.25	495.00	5,073.75
05/14/2022 CSD	Continued to work on case powerpoint; Review of "decision letters" and trial exhibits; Conducted walk through of case; Drafted letter in response to Mr. Knight's May 12, 2022 letter.	15.00	495.00	7,425.00
05/15/2022 CSD	Worked on opening statement; Continued review of trial exhibits; Continued review of Defendant's proposed trial exhibits; Preparation for trial.	10.50	495.00	5,197.50
05/16/2022 CSD	Meeting with Mr. Cloud in preparation for trial; Walk through of Plaintiff's trial exhibits; Continued working on opening statement; Preparation for pre-trial hearing and review of objections lodged by both parties; Preparation for trial.	15.00	495.00	7,425.00
05/17/2022 CSD	Preparation for pre-trial hearing; Traveled to and from Federal Courthouse for hearing; Appeared and argued at pre-trial hearing; Preparation for trial.	15.75	495.00	7,796.25
05/18/2022 CSD	Final preparation before trial; Attended trial; Preparations for the following day after trial.	15.00	495.00	7,425.00
05/19/2022 CSD	Final preparation for day of trial; Attended trial; Worked for the following trial days.	15.00	495.00	7,425.00
05/20/2022 CSD	Continued preparation for trial.	15.00	495.00	7,425.00
05/21/2022 CSD	Continued review of documents and information in preparation for trial; Review of deposition testimony in preparation for trial; Conducted legal research; Reviewed and prepared trial strategy.	15.00	495.00	7,425.00

05/22/2022 CSD	Continued review of documents and information in preparation for trial; Review of deposition testimony of Dick Cass and prepared cross examination; Review of Groom's publication on delegation of Board duties; Reviewed and prepared trial strategy.	15.00	495.00	7,425.00
05/23/2022 CSD	Final preparations for day of trial; Attended trial; Meeting with Mr. Cloud following trial day; Prepared for the following day of trial.	15.00	495.00	7,425.00
05/24/2022 CSD	Final preparations for day of trial; Attended trial; Meeting with Mr. Cloud following trial day; Prepared for the following day of trial.	15.00	495.00	7,425.00
05/25/2022 CSD	Final preparations for day of trial; Attended trial; Meeting with Mr. Cloud following trial day; Prepared for the following day of trial and prepared closing argument.	17.75	495.00	8,786.25
05/26/2022 CSD	Final preparation for closing argument; Attended trial; Long meeting with Mr. Cloud explaining the Court's ruling and likely next steps.	8.75	495.00	4,331.25
05/27/2022 CSD	Multiple emails with opposing counsel regarding attorneys' fees and costs and whether opposed or unopposed.	0.50	495.00	247.50
05/31/2022 CSD	Started drafting Motion for Attorneys' Fees and Costs.	4.75	495.00	2,351.25
06/01/2022 CSD	Emails with opposing counsel regarding position on Motion for Attorneys' Fees and Costs in which opposing counsel indicated opposition; Continued work on Motion for Attorneys' Fees and Costs; Worked on Declaration in support of Motion for Attorneys' Fees and Costs.	3.50	495.00	1,732.50
06/02/2022 CSD	Review of trial transcript; Worked on and drafted Amended Findings of Fact and Conclusions of Law.	15.50	495.00	7,672.50
06/03/2022 CSD	Continued review of the trial transcript; Continued working on and finalized Amended Findings of Fact and Conclusions of Law; Continued working on and finalized Motion for Attorneys' Fees and Costs; Continued working on and finalized Declaration of Christian Dennie on Attorneys' Fees and Costs.	8.50	495.00	4,207.50
Christian S. Dennie		1093.50		541282.50
				541,282.50
08/17/2021 PJV	Review Cloud file and extensive related documents to familiarize with fact and procedure history of case for purposes of preparing Motion to Disqualify Groom Law Firm.	4.50	450.00	2,025.00
08/18/2021 PJV	Extensive research of Plan and Groom firm and related cases in anticipation of Motion to Disqualify.	4.75	450.00	2,137.50

08/19/2021 PJV	Review Smith, Reynolds, and Vincent depositions and related exhibits and break out related testimony for purposes of drafting of Motion to Disqualify.	3.50	450.00	1,575.00
08/20/2021 PJV	Review Cloud file and related documents, research factual and procedural history, analysis of all of same, research and evaluate disqualification issues, and continue drafting of Motion to Disqualify.	6.75	450.00	3,037.50
08/23/2021 PJV	Discuss disqualification issues with Mr. Dennie and related analysis and motion preparation.	1.75	450.00	787.50
08/24/2021 PJV	Continue research and analysis of Plan and ERISA issues, client file, and issues related to disqualification of the Groom law firm and work on Motion to Disqualify.	7.25	450.00	3,262.50
08/25/2021 PJV	Continue working on Motion to Disqualify and related research in support of same.	4.75	450.00	2,137.50
08/26/2021 PJV	Review client file and history and mechanics of Plan and Groom relationship and operations, and work on disqualification issues.	5.50	450.00	2,475.00
08/27/2021 PJV	Continue working on Motion to Disqualify.	3.25	450.00	1,462.50
08/28/2021 PJV	Continue working on Motion to Disqualify and related research in support of same.	4.75	450.00	2,137.50
08/29/2021 PJV	Continue working on Motion to Disqualify, finalize initial draft, and communications with Mr. Dennie regarding same.	3.25	450.00	1,462.50
08/30/2021 PJV	Finish revisions to cites and Appendix for Motion to Disqualify and communications with Mr. Dennie regarding same.	3.50	450.00	1,575.00
08/31/2021 PJV	Extensive research, analysis, and revisions to draft Response to Motion to Dismiss.	8.75	450.00	3,937.50
09/20/2021 PJV	Review prior research and conduct additional research on ERISA claims and pre-emption issues.	2.75	450.00	1,237.50
09/23/2021 PJV	Review and analysis of prior research on non- fiduciary liability and effect on disqualification in anticipation of same being placed into issue.	1.50	450.00	675.00
09/24/2021 PJV	Receive and review Response to Motion to Disqualify, related materials, and communications with Mr. Dennie as to same.	3.25	450.00	1,462.50

09/25/2021 PJV	Review notes and related materials forwarded by Mr. Dennie.	0.25	450.00	112.50
09/26/2021 PJV	Review additional notes forwarded by Mr. Dennie.	0.25	450.00	112.50
09/27/2021 PJV	Begin research, analysis, and drafting of Reply to Response.	3.75	450.00	1,687.50
09/28/2021 PJV	Continue research, analysis, and drafting of Reply to Response.	3.75	450.00	1,687.50
09/29/2021 PJV	Continue research, analysis, and drafting of Reply to Response.	4.25	450.00	1,912.50
09/30/2021 PJV	Continued research, analysis, and revisions to Reply to Response and forward draft to Mr. Dennie for review and finalization.	6.75	450.00	3,037.50
10/05/2021 PJV	Receive and review email communication from Mr. Dennie and attached Sur-Reply to Motion to Disqualify, prepare draft Request for Hearing on his Motion to Disqualify The Groom Law Group, forward same to Mr. Dennie, and related analysis.	2.50	450.00	1,125.00
10/06/2021 PJV	Analysis of options on disqualification, joining Groom, and review prior research for other non- ERISA claims available.	1.00	450.00	450.00
10/07/2021 PJV	Further analysis of and further research of non-ERISA claims available for purposes of jury trial.	1.75	450.00	787.50
10/08/2021 PJV	Receive and review email communication from Mr. Dennie with court request for full transcripts and subsequent email with Order Denying Motion to Disqualify and review and evaluate same.	1.75	450.00	787.50
10/12/2021 PJV	Receive and initial review of Motion to Dismiss Count III and Strike Jury Demand.	1.75	450.00	787.50
10/13/2021 PJV	Review prior research and continue same as to ERISA fiduciary duty claim, general availability of jury trial, and evaluate best approach to responding to Motion to Dismiss same.	4.25	450.00	1,912.50
10/14/2021 PJV	Continue research and analysis of ERISA fiduciary duty claim.	3.50	450.00	1,575.00
10/15/2021 PJV	Continue analysis of Count III fiduciary duty claim, right to jury trial issues, and research and evaluate viability and manner for maintaining same in anticipation of preparation of Response.	2.25	450.00	1,012.50

10/18/2021 PJV	Evaluation of problematic issues in Motion to Dismiss Count III.	3.75	450.00	1,687.50
10/22/2021 PJV	Review prior research and analysis of fiduciary duty claims in ERISA context in anticipation of responding to Motion to Dismiss County III.	2.25	450.00	1,012.50
10/27/2021 PJV	Discuss status of Cloud matter with Messrs. Collins and Dennie.	1.00	450.00	450.00
11/02/2021 PJV	Discuss status of Robert Smith deposition with Mr. Dennie.	0.25	450.00	112.50
11/03/2021 PJV	Work on brief Response to Motion to Dismiss Count III and related communications with Mr. Dennie.	3.25	450.00	1,462.50
11/04/2021 PJV	Work research and preparation of outline for Response brief and related communications with Mr. Dennie.	2.75	450.00	1,237.50
11/05/2021 PJV	Review of deposition transcripts, work on research, and crafting of response issues in addressing Motion to Dismiss Count III.	3.75	450.00	1,687.50
11/07/2021 PJV	Continue research and preparation of Response to Motion to Dismiss Count III.	10.75	450.00	4,837.50
11/08/2021 PJV	Continue analysis, research, and drafting of Response to Motion to Dismiss Count III.	7.25	450.00	3,262.50
11/09/2021 PJV	Continue analysis, research, and finalize Response to Motion to Dismiss Count III, supporting Appendix, related communications with Mr. Dennie, and coordinate filing of same.	10.75	450.00	4,837.50
12/01/2021 PJV	Communications with Mr. Dennie regarding need to prepare draft Motion for Summary Judgment.	0.50	450.00	225.00
12/08/2021 PJV	Review ERISA procedures and timeline and substance of Cloud claims process.	3.25	450.00	1,462.50
12/09/2021 PJV	Continue review and analysis of administrative record and prior research on ERISA procedures, and update communications with Mr. Dennie regarding status of draft Motion for Summary Judgment.	4.75	450.00	2,137.50
12/10/2021 PJV	Continued analysis of administrative record and research on ERISA procedures and begin drafting portion of Motion for Summary Judgment.	4.50	450.00	2,025.00

12/15/2021 PJV	Continue analysis of administrative record and deposition testimony for preparation of Motion for Summary Judgment.	2.75	450.00	1,237.50
12/16/2021 PJV	Continue working on Cloud deposition excerpts for use in motion and case law and document review and analysis as to same.	5.25	450.00	2,362.50
12/17/2021 PJV	Continue working on draft motion and online research of NFL plan, ERISA issues, and additional document analysis.	4.75	450.00	2,137.50
12/20/2021 PJV	Continue working on tasks related to preparation of motion for judgment or summary judgment.	4.50	450.00	2,025.00
12/21/2021 PJV	Continue working on Cloud Motion for Judgment and review of deposition testimonies and records.	6.00	450.00	2,700.00
12/22/2021 PJV	Further work on summarizing key deposition testimony for dispositive motion.	8.50	450.00	3,825.00
12/27/2021 PJV	Continue working on Motion for Judgment, including related research and analysis of testimonies and documents.	7.00	450.00	3,150.00
12/28/2021 PJV	Continue working on Cloud Motion for Judgment.	2.75	450.00	1,237.50
12/29/2021 PJV	Continue research, document review and analysis, and compilation of witness testimony for fact section.	6.75	450.00	3,037.50
01/06/2022 PJV	Continue working on Motion for Judgment.	2.75	450.00	1,237.50
01/07/2022 PJV	Continue preparing Cloud Motion for Judgment, including related research, review, and analysis.	3.00	450.00	1,350.00
01/10/2022 PJV	Continue working on Cloud Motion for Judgment and related tasks.	4.25	450.00	1,912.50
01/11/2022 PJV	Continue working on Cloud Motion and extensive related research and analysis.	5.50	450.00	2,475.00
01/12/2022 PJV	Continue working on Cloud Motion for Judgment, including related research, document review, and analysis.	5.50	450.00	2,475.00

01/13/2022 PJV	Continue research, document review, and analysis.	3.75	450.00	1,687.50
01/14/2022 PJV	Continue preparation of Cloud Motion for Judgment, related research, and analysis.	5.25	450.00	2,362.50
01/15/2022 PJV	Continue working on Cloud Motion for Judgment, including related research, document review, and analysis.	4.75	450.00	2,137.50
01/16/2022 PJV	Continue document review and analysis, research, summation of key parts in deposition testimony and preparation of Motion for Judgment and related relief.	7.75	450.00	3,487.50
01/17/2022 PJV	Further review, analysis, research, and preparation of Motion for Judgment.	3.75	450.00	1,687.50
01/18/2022 PJV	Document analysis for preparation of Motion for Judgment.	4.50	450.00	2,025.00
01/19/2022 PJV	Continued document analysis and work on factual chronology for Motion for Judgment and related relief.	3.50	450.00	1,575.00
01/20/2022 PJV	Continued document and deposition testimony analysis, research, and preparation of Motion for Judgment and related relief.	4.00	450.00	1,800.00
01/21/2022 PJV	Continued document review, analysis, research, and work on fact portion of Motion for Judgment and related relief.	6.00	450.00	2,700.00
01/23/2022 PJV	Work on fact pattern for Motion for Judgment.	1.25	450.00	562.50
01/24/2022 PJV	Document and case review and analysis as to Plan and Groom handling of other claims in litigation and work on Motion for Judgment.	7.00	450.00	3,150.00
01/25/2022 PJV	Continue review, analysis, research, and preparation of Motion for Judgment.	7.25	450.00	3,262.50
01/26/2022 PJV	Further analysis, research, and preparation of Motion for Judgment.	9.50	450.00	4,275.00
01/27/2022 PJV	Analysis of case law and Groom handling of other claimant benefits applications and incorporate in draft Motion for Judgment and related relief.	4.25	450.00	1,912.50

01/28/2022 PJV	Analysis of case law, drafting of Motion for Judgment, and discuss status with Mr. Dennie including latest document production.	2.25	450.00	1,012.50
01/30/2022 PJV	Continue review and analysis of issues related to Motion for Judgment.	1.75	450.00	787.50
01/31/2022 PJV	Continue document review, analysis, and research, including further analysis of poorly drafted Plan terms and Groom's interpretations of same.	7.25	450.00	3,262.50
02/01/2022 PJV	Review and analysis of Cloud medical records and related testimony, timeline of evolution of conditions, and application of Plan terms to same, and work on fact section for Motion for Judgment.	9.25	450.00	4,162.50
02/02/2022 PJV	Continue review and analysis of Cloud medical records and related testimony, Plan terms as to same, and evaluate possible outcomes depending on standard of review, and work on fact section in Motion for Judgment.	4.50	450.00	2,025.00
02/03/2022 PJV	Research and analysis regarding issues related to Motion for Judgment and related relief.	4.25	450.00	1,912.50
02/04/2022 PJV	Research and analysis regarding issues related to Motion for Judgment and related relief.	3.25	450.00	1,462.50
02/07/2022 PJV	Research, analysis, and compile factual evidence for Motion for Judgment and related relief.	3.75	450.00	1,687.50
02/08/2022 PJV	Continue analysis and compilation of evidence in preparation of Motion for Judgment and related relief.	6.50	450.00	2,925.00
02/09/2022 PJV	Continue document review and analysis.	5.50	450.00	2,475.00
02/10/2022 PJV	Document review and analysis, research, and preparation of fact section in Motion for Judgment based upon administrative record, supplementations, and deposition testimony.	5.00	450.00	2,250.00
02/11/2022 PJV	Continue document review and analysis, research, and preparation of Motion for Judgment and related relief.	5.75	450.00	2,587.50
02/13/2022 PJV	Continue review and analysis of supplemental document production in anticipation of seeking leave to supplement administrative record.	3.75	450.00	1,687.50
02/14/2022 PJV	Further continued review and analysis of supplemental document production in anticipation of seeking leave to supplement administrative record, review related draft filings, communications with Mr. Dennie, and assist and coordinate filing of same.	8.75	450.00	3,937.50

02/15/2022 PJV	Continue review and analysis of other aspects of supplemental document production in anticipation of using portions of same for Motion for Judgment.	3.50	450.00	1,575.00
02/16/2022 PJV	Discuss administrative record issues with Mr. Dennie, receive, review, and revise draft Reply in Support of Plaintiff's First and Second Supplemental Motions to Supplement the Administrative Record, and related tasks.	2.25	450.00	1,012.50
02/17/2022 PJV	Continued analysis of extensive number of documents in latest production and related communications.	3.25	450.00	1,462.50
02/18/2022 PJV	Continued analysis of extensive number of documents in latest production and related communications.	5.75	450.00	2,587.50
02/20/2022 PJV	Extensive research, review of record, and drafting of Brief in Support of Motion for Judgment.	5.75	450.00	2,587.50
02/21/2022 PJV	Extensive analysis and drafting of Brief in Support of Motion for Judgment.	6.25	450.00	2,812.50
02/22/2022 PJV	Research complex ERISA issues as applied to Plan, related analysis, and revise draft Brief in Support of Motion for Judgment.	10.50	450.00	4,725.00
02/23/2022 PJV	Continue working on draft Brief in Support of Motion for Judgment and related communications with Mr. Dennie.	5.50	450.00	2,475.00
02/24/2022 PJV	Research case law on Plan denials as to other players, evaluation of related definitions of key terms, continue review of decision letters, and continued drafting of Brief in Support of Motion for Judgment.	5.75	450.00	2,587.50
02/25/2022 PJV	Continued work on Brief in Support of Motion for Judgment, and extensive analysis and evaluation of administrative record and related case law.	9.50	450.00	4,275.00
02/26/2022 PJV	Continued review of latest draft of Brief in Support of Motion for Judgment, and further research, analysis, and revisions to same.	12.50	450.00	5,625.00
02/27/2022 PJV	Extensive research, analysis, and revisions to draft Brief in Support of Motion for Judgment.	11.25	450.00	5,062.50
02/28/2022 PJV	Extensive work on Brief in Support of Motion for Judgment. Related discussions with Mr. Dennie, and complete, compile, and coordinate filing of same along with administrative record and related issues.	14.75	450.00	6,637.50
03/04/2022 PJV	Initial review of Plan motion for summary judgment.	3.25	450.00	1,462.50

03/07/2022 PJV	Review "shortly after" issues in anticipation of further argument as to same.	2.00	450.00	900.00
03/10/2022 PJV	Review and analysis of Plan dispositive motion and related cites in record.	5.75	450.00	2,587.50
03/11/2022 PJV	Analysis of motion for summary judgment and continue work on response to same.	3.00	450.00	1,350.00
03/14/2022 PJV	Begin review of draft response to Motion to Strike Expert, related review of file and research, and revisions to response regarding same.	6.25	450.00	2,812.50
03/15/2022 PJV	Continued analysis and revisions to draft response to Motion to Strike Expert.	5.25	450.00	2,362.50
03/16/2022 PJV	Continued work on Response to Daubert Motion and Response to Motion for Summary Judgment, and receive and review Brief in support of Motion seeking to alter confidential status of documents, and related communications with Mr. Dennie.	9.75	450.00	4,387.50
03/17/2022 PJV	Continued work on Response to Motion for Summary Judgment, and related communications with Mr. Dennie	12.75	450.00	5,737.50
03/18/2022 PJV	Continue and complete preparation of Motion for Leave to File Over-Length Brief in Response to Defendant's Motion for Summary Judgment on the Administrative Record and Brief in Response to Defendant's Motion for Summary Judgment on the Administrative Record, coordinate filing of same, and discuss related issues with Mr. Dennie.	7.75	450.00	3,487.50
03/21/2022 PJV	Evaluate and discuss dispositive motion issues with Mr. Dennie.	0.75	450.00	337.50
03/22/2022 PJV	Initial review and analysis of Plan Response to Cloud Motion for Judgment.	3.25	450.00	1,462.50
03/29/2022 PJV	Review of administrative record on key issues and discuss Reply logistics with Mr. Dennie.	2.25	450.00	1,012.50
03/30/2022 PJV	Analysis of Plan document issues, and related communications with Mr. Dennie.	1.75	450.00	787.50
03/31/2022 PJV	Analysis of Reply issues, and discuss related matters with Mr. Dennie.	1.25	450.00	562.50
04/01/2022 PJV	Continue review of issues, working on draft Reply, receive and initial review of Plan Reply as to its Motion for Summary Judgment, and discuss related issues with Mr. Dennie.	3.25	450.00	1,462.50

04/02/2022 PJV	Work on Reply to Plan Response to Cloud Motion for Judgment.	4.75	450.00	2,137.50
04/03/2022 PJV	Work on Reply as to Cloud Motion for Judgment, including extensive review, analysis, and related research.	9.25	450.00	4,162.50
04/04/2022 PJV	Continue preparation of Reply to Defendant's Opposition to Plaintiff's Motion for Judgment, related research, review, and analysis, discussions with Mr. Dennie as to same, and coordinate filing of same.	9.50	450.00	4,275.00
04/05/2022 PJV	Discussions with Mr. Dennie regarding mediation and claims of Plan counsel and review related issues.	1.75	450.00	787.50
04/06/2022 PJV	Attorney discussions with Mr. Vitanza, Mr. Dennie regarding ruling denying summary judgments and trial setting and prep.	4.25	450.00	1,912.50
04/08/2022 PJV	Review cases related to trial and discuss same with Mr. Dennie.	1.25	450.00	562.50
04/10/2022 PJV	Pretrial review, research, and exhibit analysis.	2.75	450.00	1,237.50
04/11/2022 PJV	Prepare and file Notice of Appearance, and continued pretrial review, research, and exhibit analysis.	6.25	450.00	2,812.50
04/12/2022 PJV	Further research and analysis of trial and standard of review issues, prepare for and attend pre-trial conference, related analysis and discussions with Mr. Dennie, and continue pretrial preparations.	4.75	450.00	2,137.50
04/14/2022 PJV	Extensive case law research on trial issues, including cases involving Plan, attend conference call with opposing counsel regarding stipulations, witnesses, exhibits, and related matters, discussions with Mr. Dennie as to various pretrial matters and with Mr. Collins as to witness issues and with Mr. McIlwain as to Findings of Fact and Conclusions of Law.	9.50	450.00	4,275.00
04/15/2022 PJV	Continued trial preparation, including case law research, review of documents for inclusion in exhibit list, review of pleading on issues related to potential amendments, discussions with Messrs. Dennie and McIlwain as to various pretrial matters, and related tasks.	8.75	450.00	3,937.50
04/17/2022 PJV	Brief additional trial preparation and document review.	2.25	450.00	1,012.50
04/18/2022 PJV	Work on revisions to Complaint, attend status conference call with Judge Scholer, discuss related issues with Mr. Dennie, and related pretrial tasks.	10.75	450.00	4,837.50

04/19/2022 PJV	Pretrial meeting with Messrs. Dennie and McIlwain and Ms. Burks, review and revise Exhibit List, prepare Motion for Leave to amend, revise amended Complaint, and related trial tasks.	8.25	450.00	3,712.50
04/20/2022 PJV	Continued pretrial preparation, review of exhibits and related lists and designations, finalize draft Second Amended Complaint, continue working on proposed Findings of Fact and Conclusions of Law, encounter loss of version, communicate to Plan counsel regarding same, file Motion for Leave to File Second Amended Complaint, Exhibit List, Witness List, Designation of Deposition Excerpts Pretrial Disclosures, and proposed Joint Pretrial Order, receive and review Plan Designation of Deposition Excerpts Pretrial Disclosures,	15.25	450.00	6,862.50
04/21/2022 PJV	Continue preparation of pretrial materials, finalize reconstituted proposed Findings of Fact and Conclusions of Law, review Motion for Leave to File same, email transmittal of word version to Court, receive and review communication from Plan counsel, further review and analysis of exhibit and witness lists and deposition excerpts, and related discussions with Mr. Dennie.	14.75	450.00	6,637.50
04/22/2022 PJV	Receive and review Memorandum Opinion and Order Denying Plan's Motion to Alter Confidentiality Designations, Order granting Motion for Leave to File proposed Fact and Conclusions of Law, continued review of administrative record, decision letters, and related regulations and case law, general pretrial preparation tasks, and related discussions with Mr.	10.25	450.00	4,612.50
04/23/2022 PJV	Trial preparation, review of exhibits, review and revise deposition excerpts, related strategy and tasks, receive and review Plan Response to Motion for Leave to File Second Amended Complaint, and communications with Mr. Dennie.	9.25	450.00	4,162.50
04/24/2022 PJV	Trial preparation and review and coordination of exhibits, deposition excerpts, related analysis, strategy, and tasks, and communications with Messrs. Dennie and Collins.	10.25	450.00	4,612.50
04/25/2022 PJV	Continue pretrial preparation, review of and coordination of exhibits for presentation of same, prepare Plaintiff's Objections Pretrial Disclosures and Reply as to Motion for Leave to file Second Amended Petition, receive and review Plan Response and Objection to Cloud Pretrial Disclosures and Exhibit List, and related pretrial discussions and strategy with Mr. Dennie.	11.25	450.00	5,062.50
04/26/2022 PJV	Continue pretrial preparation, related intra office communications, attend court telephone conference, discuss trial resetting and related issues, and receive and review Fourth Amended Scheduling Order, Order granting Motion for Leave to File Second Amended Complaint, and related pretrial tasks and discussions with Messrs. Cloud and Dennie.	4.75	450.00	2,137.50
04/27/2022 PJV	Continue pretrial preparation, including review of exhibits, case law, and points of contention.	3.25	450.00	1,462.50
04/28/2022 PJV	Conference call with Court regarding trial matters; Conducted trial preparation.	3.75	450.00	1,687.50
04/29/2022 PJV	Review of deposition transcripts for topics on cross- examination and readiness for potential impeachment.	6.25	450.00	2,812.50
05/02/2022 PJV	Continue pretrial preparation, review and analysis of exhibits, strategies for presentation of same, analysis of testimony, and related pretrial tasks and intra office discussions as to same.	4.75	450.00	2,137.50
05/03/2022 PJV	Review of exhibits, related analysis, general trial preparation, and related discussions.	3.75	450.00	1,687.50

05/04/2022 PJV	Continue pretrial preparation, and review of exhibits.	3.25	450.00	1,462.50
05/05/2022 PJV	Continue review and analysis of decision letters, including changed circumstances and application of other Plan provisions, work on summaries of same for use at trial, and related trial preparation.	4.25	450.00	1,912.50
05/06/2022 PJV	Continue review and analysis of decision letters, related Plan and ERISA provisions, and related trial preparation.	2.50	450.00	1,125.00
05/09/2022 PJV	Research and review opinions and filings in other Plan cases, conference call with Plan counsel on meet and confer regarding objections and stipulations, work on summaries for reclassification decisions, and related discussions with Mr. Dennie.	9.75	450.00	4,387.50
05/10/2022 PJV	Extensive research and analysis of ERISA case law and regulations, review video deposition excerpts, review summary email on meet and confer, and related discussions and communications with Mr. Dennie.	6.50	450.00	2,925.00
05/11/2022 PJV	Continue extensive research and analysis of ERISA case law and regulations and preparation of summary handout for latter, review communications with Plan counsel, related communications with Mr. Dennie, and general trial preparation.	5.50	450.00	2,475.00
05/12/2022 PJV	Further analysis of Plan documents, including SPD, research and review ERISA opinions related to same, changes in documents, scope of various claims and applicable facts and evidence, related discussions with Mr. Dennie, continued trial preparation, and receive and review correspondence from Plan counsel as to pretrial matters.	9.25	450.00	4,162.50
05/13/2022 PJV	Continued research and analysis of ERISA opinions, review of exhibits and related evidence, review and preparation of handout summaries for decision letters, and receive Plan counsel declaration as to attorneys' fees.	8.75	450.00	3,937.50
05/14/2022 PJV	Trial preparation, meeting with Mr. Dennie, review video deposition excerpts, review and proceed through trial exhibits, discuss decision letters and related case law, assist in preparation of letter response to same from Plan counsel, further review of decision letters and case, and related pretrial tasks.	7.25	450.00	3,262.50
05/15/2022 PJV	Continue review and organization of decision letters, analysis of same and Plan and ERISA provisions; review and analysis of Fifth Circuit ERISA case law; further revisions to summaries of same and general trial preparation	6.25	450.00	2,812.50
05/16/2022 PJV	Continued trial preparation, including for pre-trial hearing	10.50	450.00	4,725.00
05/17/2022 PJV	Preparation, roundtrip travel, discussions with Messrs. Dennie and Cloud, attend and assist in pretrial hearing, and continued trial preparation.	15.50	450.00	6,975.00
05/18/2022 PJV	Continued trial preparation, research, analysis, and discussions with Messrs. Dennie and Cloud, attend and assist in continued trial, and further research and preparation for following day of trial.	14.75	450.00	6,637.50
05/19/2022 PJV	Continued trial preparation, research, analysis, and discussions with Messrs. Dennie and Cloud, attend and assist in continued trial, and further research and preparation for following day of trial.	15.50	450.00	6,975.00

05/20/2022 PJV	Continued trial preparation, research, analysis, and discussions with Mr. Dennie.	15.25	450.00	6,862.50	
05/21/2022 PJV	Continued trial preparation, research, analysis, and discussions with Mr. Dennie.	12.75	450.00	5,737.50	
05/22/2022 PJV	Continued trial preparation, research, analysis, and discussions with Mr. Dennie.	13.75	450.00	6,187.50	
05/23/2022 PJV	Continued trial preparation, research, analysis, and discussions with Messrs. Dennie and Cloud, attend and assist in continued trial, and further research and preparation for following day of trial.	15.75	450.00	7,087.50	
05/24/2022 PJV	Continued trial preparation, research, analysis, and discussions with Messrs. Dennie and Cloud, attend and assist in continued trial, and further research and preparation for following day of trial.	15.75	450.00	7,087.50	
05/25/2022 PJV	Continued trial preparation, research, analysis, and discussions with Messrs. Dennie and Cloud, attend and assist in continued trial, and further research and preparation for following day of closing presentation.	18.25	450.00	8,212.50	
05/26/2022 PJV	Continued assistance in preparation for closing, discussions with Messrs. Dennie and Cloud, attend closing arguments and Court's initial ruling in principle, discuss same, and begin preparation of outline of issues for amended Findings of Fact and Conclusions of Law.	8.75	450.00	3,937.50	
05/31/2022 PJV	Conducted legal research on issues necessary to prepare amended Findings of Fact and Conclusions of Law and had discussions with Mr. Dennie regarding the same.	3.50	450.00	1,575.00	
Paul J. Vitanza		949.00		427,050.00	\$ 427,050.00
10/27/2021 CDC	Attorney communications and update with Mr. Dennie and Mr. Vitanza.	1.00	520.00	520.00	
11/09/2021 CDC	Attorney discussion with Mr. Vitanza; legal research (regarding Response to Motion To Dismiss).	0.50	520.00	260.00	
12/20/2021 CDC	Legal research; attorney discussions with Mr. Vitanza.	1.00	520.00	520.00	
12/21/2021 CDC	Assist in organizing and filing Appendix to Plaintiff's Motion; attorney discussions with Mr. Dennie and Mr. Vitanza regarding same.	0.75	520.00	390.00	

12/22/2021 CDC	Attorney discussion with Mr. Dennie , Ms. Vestall and Ms. Burks regarding supplemental filing matters.	0.50	520.00	260.00
01/21/2022 CDC	Attorney discussion with Mr. Vitanza.	0.25	520.00	130.00
02/15/2022 CDC	Legal research regarding attorney's fees recovery in ERISA and contingent fee cases.	0.50	520.00	260.00
02/28/2022 CDC	Review and revise Rule 52 Motion and attorney discussions with Mr. Vitanza and Mr. Dennie regarding same; staff instruction regarding same and related.	1.50	520.00	780.00
03/01/2022 CDC	Attorney update with Mr. Vitanza.	0.75	520.00	390.00
04/06/2022 CDC	Attorney discussions with Mr. Vitanza, Mr. Dennie regarding ruling denying summary judgments and trial setting and prep.	0.50	520.00	260.00
04/11/2022 CDC	Attorney discussions with Mr. Vitanza; attorney discussions with Mr. Dennie.	0.75	520.00	390.00
04/14/2022 CDC	Legal research regarding (FRCP 30(a)(3)) and attorney communications with Mr. Dennie and Mr. Vitanza regarding same and related.	0.75	520.00	390.00
04/20/2022 CDC	Attorney meeting with Mr. Dennie regarding trial preparation matters; attorney meeting with Mr. Vitanza regarding Findings of Fact and Conclusions of Law, Exhibit List and related.	0.75	520.00	390.00
04/25/2022 CDC	Attorney communications with Mr. Vitanza and Mr. Dennie regarding trial preparation and related.	0.50	520.00	260.00
Chris D. Collins		10.00	5,200.00	5,200.00
04/13/2022 MKM	Review First Amended Complaint in preparation for draft of Plaintiff's Proposed Findings of Fact and Conclusions of Law; begin review of Plaintiff's Motion for Summary Judgment and Brief in Support in preparation for drafting of Plaintiff's proposed Findings of Fact and Conclusions of Law; review the Court's Third Amended Scheduling Order in preparation for drafting proposed Findings of Fact and Conclusions of Law.	3.25	300.00	975.00
04/14/2022 MKM	Attend conference call with Mr. Vitanza and Mr. Dennie discussing pretrial items with opposing counsel; continue review of Plaintiff's Rule 52(a)/Rule 56(a) motion and brief in support; review Court orders 141 and 151 supplementing the administrative record; drafting of Plaintiff's proposed findings of fact and conclusions of law.	9.25	300.00	2,775.00

04/15/2022 MKM	Continue draft of Plaintiff's proposed Findings of Fact and Conclusions of Law.	8.00	300.00	2,400.00
04/16/2022 MKM	Continue Plaintiff's proposed Findings of Fact and Conclusions of Law.	7.25	300.00	2,175.00
04/17/2022 MKM	Continue Plaintiff's proposed Findings of Fact and Conclusions of Law.	4.00	300.00	1,200.00
04/18/2022 MKM	Draft of Alternative proposed Conclusions of Law and review of Plaintiff's Response to Defendant's Motion for Summary Judgment and review of Plaintiff's Reply Brief to Defendant's Response to Plaintiff's Motion for Summary Judgment; preparation with Mr. Dennie and Mr. Vitanza for Second Pretrial Conference; attend via telephone second pretrial conference with Mr. Dennie and Mr. Vitanza; debrief pretrial conference with Mr. Dennie and Mr. Vitanza discussing trial strategy regarding witnesses and discuss differing standards of review and trial implications.	9.75	300.00	2,925.00
04/19/2022 MKM	Research of case law fiduciary duty owed by attorney of plan to beneficiaries of plan; continue and revise plaintiffs proposed findings of fact and conclusions of law; litigation team meeting with Messrs. Dennie and Vitanza and Ms. Burks; Conduct review of CFR ERISA regulations as cited in briefs.	8.00	300.00	2,400.00
04/20/2022 MKM	Revise plaintiff's proposed findings of fact, conclusions of law (de novo), and alternative conclusions of law (abuse of discretion); send version 3 to Messrs. Dennie and Vitanza; review declaration of attorneys fees and costs; draft Plaintiff's Designation of Deposition Excerpts.	2.75	300.00	825.00
04/22/2022 MKM	Research case law regarding interpretation of "subject to" provisions (5.3 and 5.4 sections of the Plan); email Mr. Dennie regarding research concerning interpretation of "subject to" provisions (5.3 and 5.4 sections of the Plan); review pleadings for motion and order regarding opposing counsel, Northern District TX local rules and Judge Scholer's rules to determine if opposing counsel ever read Dondi opinion	4.00	300.00	1,200.00
04/25/2022 MKM	Meeting with litigation team regarding filing deadlines, cross-examinations, and document review needed; review Defendant filings that were unnecessary or contained personal attacks against Plaintiff's counsel for attorneys' fees portion of trial; draft chart outlining Defendant's unnecessary filings and attacks on counsel; email same to Mr. Dennie	7.50	300.00	2,250.00
[. Kevin McIlwain		63.75		19,125.00
Paralegals				
12/22/2021 TKV	Prepared Appendix listing all 23 exhibits with their starting page numbers; Organized and split all exhibits to a smaller filing size for the ECF filing rules.	2.50	125.00	312.50
02/11/2022 TKV	Organizing, reviewing, and putting in timeline format Cloud Letters.	3.00	125.00	375.00

02/14/2022 TKV	Continue organizing, reviewing, and putting in timeline format Cloud Letters and preparing documents to be file with Motion for Leave.	8.00	125.00	1,000.00	
04/20/2022 TKV	Prepare and draft Plaintiff's Designation of Deposition Excerpts and redact three depositions.	6.00	125.00	750.00	
04/26/2022 TKV	Review all video excerpts for accuracy.	6.50	125.00	812.50	
Fracie K. Vestall		26.00		3,250.00	3,250.00
09/28/2020 LAB	Prepared drafted Initial Disclosures in accordance with Fed. R. Civ. P. 26(a)(1).	3.00	125.00	375.00	
04/14/2022 LAB	Review of document production for the purposes of preparing Trial Exhibits; Drafted Trial Witness List.	5.50	125.00	687.50	
04/18/2022 LAB	Review of deposition excerpts for filing of with the Court.	6.00	125.00	750.00	
04/20/2022 LAB	Review and redact depositions for filing with the court.	6.00	125.00	750.00	
Lee Ann Burks		20.50		2,562.50	2,562.50
Law Clerks					
01/15/2021 HGC	Conducted legal research for memorandum analyzing the overall probability of success regarding Plaintiff's ERISA claim and standard under Federal ERISA law.	3.00	125.00	375.00	
01/18/2021 HGC	Conducted legal research for memorandum and drafted memorandum analyzing the overall probability of success regarding Plaintiff's ERISA claim and standard under ERISA law.	3.00	125.00	375.00	

01/19/2021 HGC	Continued work on and drafting of memorandum addressing ERISA standards and probability of success on each such claim.	2.00	125.00	250.00
01/20/2021 HGC	Conducted additional legal research on ERISA standards in the Fifth Circuit.	2.00	125.00	250.00
01/21/2021 HGC	Drafted additions to memorandum to provide additional case law examples and citations.	2.50	125.00	312.50
04/12/2021 HGC	Conducted legal research on the use of expert witness reports in ERISA litigation.	1.25	125.00	156.25
04/13/2021 HGC	Conducted legal research on the use of expert witness testimony in ERISA litigation.	2.25	125.00	281.25
06/24/2021 HGC	Conducted legal research to determine the scope and extent of discovery allowed in ERISA benefit claims under arbitrary and capricious standard.	3.50	125.00	437.50
07/19/2021 HGC	Conducted legal research on supplementation of the administrative record in ERISA cases.	2.00	125.00	250.00
07/20/2021 HGC	Continued conducting legal research on supplementation of the administrative record in ERISA cases.	1.25	125.00	156.25
07/21/2021 HGC	Continued conducting legal research on supplementation of the administrative record in ERISA cases.	2.00	125.00	250.00
07/23/2021 HGC	Conducted legal research and finalized drafting of memorandum to be used in support of Plaintiff's Reply in Support of Motion to Supplement the Administrative Record.	3.75	125.00	468.75
08/03/2021 HGC	Conducted legal research in support of Plaintiff's Motion to Compel.	2.25	125.00	281.25
08/04/2021 HGC	Continued conducting legal research and drafted Plaintiff's Motion to Compel.	2.25	125.00	281.25
08/05/2021 HGC	Continued conducting legal research and drafted Plaintiff's Motion to Compel.	1.25	125.00	156.25
08/09/2021 HGC	Drafted memorandum in support of Plaintiff's Motion to Compel analyzing Fifth Circuit case law.	2.25	125.00	281.25

08/10/2021 HGC	Started conducting legal research for Plaintiff's dispositive motion.	2.25	125.00	281.25	
08/12/2021 HGC	Conducted legal research in support of Plaintiff's Motion to Compel.	5.25	125.00	656.25	
08/16/2021 HGC	Drafted memorandum regarding legal research in support of Plaintiff's Motion to Compel.	1.25	125.00	156.25	
09/08/2021 HGC	Conducted legal research on imposing liability on Plan fiduciaries with respect to the requirement of providing beneficiaries medical records.	3.00	125.00	375.00	
J. Allen G. Cammack		48.25		6,031.25	6,031.25
Total Hours / Fees		2211			1,004,501.25

Expenses

5/15/2020		Filing Fees: US District Court	400.00
5/20/2020		Filing Fees: One Source Process	66.63
5/29/2020		Westlaw Research	164.20
6/30/2020		Pacer Research	91.30

7/15/2020	Copy and Print	1,038.45
7/28/2020	Medical Records: Sharecare V6EYL-1	33.47
8/4/2020	Medical Records: Sharecare V7USU-1	61.72
8/4/2020	Medical Records: Orthopedic Surgery	15.00
8/6/2020	Medical Records: Montclair Radiology	10.00
8/15/2020	Extraordinary Postage	10.40
9/9/2020	Medical Records: Methodist Hospital	20.70
10/15/2020	Extraordinary Postage	6.90
6/30/2021	Westlaw Research	34.23
8/23/2021	Veritext: Transcript of Patrick Charles Reynolds	3,485.65
8/25/2021	Parking Expense: ACE Parking (Dallas)	15.00
8/26/2021	Veritext: Transcript of Christophine Smith	2,867.60
8/26/2021	Federal Express	43.76
8/31/2021	Westlaw Research	1,382.08

9/15/2021	Extraordinary Postage	7.65
9/30/2021	Pacer Research	213.50
10/11/2021	Veritext: Service of Subpoena/Summons National F	137.15
11/9/2021	Veritext: Transcript of Robert Smith	1,715.76
11/17/2021	Travel: Providence, Rhode Island for Deposition of I	535.84
11/30/2021	Westlaw Research	1,287.78
12/2/2021	Veritext: Transcript of Jennifer Cloud	943.41
12/2/2021	Veritext: Service of Subpoena/Summons NFL Playe	265.70
1/4/2022	Veritext: Service of Subpoena/Summons NFL Playe	193.58
1/15/2022	Extraordinary Postage	26.88
2/3/2022	Veritext: Transcript of Dr. Joseph Wu	1715.76
3/28/2022	Full day mediation services Royal Furgeson	1,500.00
4/5/2022	FedArb, Inc. Zoom Mediation Fee	500.00

4/15/2022	Extraordinary Postage	8.95
4/19/2022	Veritext: Video Deposition Excerpts	3,000.00
4/25/2022	Falcon Solutions: #63539 - Trial Prep Cost	6,489.03
4/26/2022	Veritext #5738993 - Video Dick Cass	1,550.00
4/26/2022	Veritext #5738909 - Video Michael Cloud	2,314.60
4/26/2022	Veritext #5738908 - Video Robert B. Smith	1,050.00
4/26/2022	Veritext #5738910 - Video Jennifer Cloud	1,160.60
4/28/2022	Veritext #5738911 - Video / Dr. Wu	2,861.00
4/30/2022	Westlaw Research	2,830.35
5/13/2022	Falcon Solutions #63732 Trial Exhibit Expense	720.62
5/13/2022	Veritext Video #5778588: Dick Cass	300.00
5/13/2022	Veritext Video #5778589: Robert S. Smith	300.00
5/13/2022	Veritext Video #5778594: Michael Cloud	1,759.60
5/13/2022	Veritext Video #5777636: Jennifer Cloud	1,014.80

5/13/2022	Veritext Video #5777638: Dr. Wu (Volumes 1 & 2)	3,805.40
5/17/2022	Falcon Solutions #63773 Courier Exp	170.00
5/17/2022	Falcon Solutions #63770 Trial Exhibit Exp	517.98
5/17/2022	Parking Expense: G. Allen Bldg (Dallas)PJV	10.00
5/17/2022	Parking Expense: ACE Parking (Dallas)CSD	18.00
5/18/2022	Parking Expense: G. Allen Bldg (Dallas)PJV	10.00
5/18/2022	Parking Expense: ACE Parking (Dallas)CSD	18.00
5/19/2022	Parking Expense: G. Allen Bldg (Dallas)PJV	10.00
5/19/2022	Parking Expense: ACE Parking (Dallas)CSD	18.00
5/23/2022	Parking Expense: ACE Parking (Dallas)PJV	18.00
5/23/2022	Parking Expense: ACE Parking (Dallas)CSD	18.00
5/24/2022	Parking Expense: ACE Parking (Dallas)PJV	18.00
5/24/2022	Parking Expense: ACE Parking (Dallas)CSD	18.00
5/25/2022	Parking Expense: ACE Parking (Dallas)PJV	18.00

5/25/2022		Parking Expense: ACE Parking (Dallas)CSD	18.00
5/26/2022		Parking Expense: ACE Parking (Dallas)PJV	18.00
5/26/2022		Parking Expense: ACE Parking (Dallas)CSD	18.00
5/26/2022		Mileage: PJV 476 miles @\$\$.54 per mile	257.04
5/27/2022		Falcon Solutions #63884 Courier Exp	191.25
5/27/2022		Transcription Fees: Thu Bui, Reporter #2221	1,346.40
Total Expenses and Costs:			50,665.72

EXHIBIT 3-B

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3:20-cv-01277-S Cloud v. The Bert Bell/Pete Rozelle NFL Player Retirement Plan

Karen Gren Scholer, presiding

Date filed: 05/15/2020**Date of last filing:** 05/27/2022



































History

Doc. No.	Dates	Description
<u>1</u>	<i>Filed & Entered:</i> 05/15/2020	 Complaint
<u>2</u>	<i>Filed & Entered:</i> 05/15/2020	 Cert. Of Interested Persons/Disclosure Statement
<u>3</u>	<i>Filed:</i> 05/15/2020 <i>Entered:</i> 05/18/2020	 Judge Brown
<u>4</u>	<i>Filed & Entered:</i> 05/18/2020	 Summons Issued
<u>5</u>	<i>Filed & Entered:</i> 06/01/2020	 Summons Returned
<u>6</u>	<i>Filed & Entered:</i> 06/03/2020	 Notice of Attorney Appearance
<u>7</u>	<i>Filed & Entered:</i> 06/03/2020 <i>Terminated:</i> 06/08/2020	 Application for Admission Pro Hac Vice
<u>8</u>	<i>Filed & Entered:</i> 06/08/2020	 Order on Application for Admission Pro Hac Vice
<u>9</u>	<i>Filed & Entered:</i> 06/10/2020 <i>Terminated:</i> 02/18/2021	 Motion to Strike
<u>10</u>	<i>Filed & Entered:</i> 06/10/2020	 Cert. Of Interested Persons/Disclosure Statement
<u>11</u>	<i>Filed & Entered:</i> 07/01/2020	 Response/Objection
<u>12</u>	<i>Filed & Entered:</i> 07/13/2020	 Reply
<u>13</u>	<i>Filed & Entered:</i> 09/22/2020	 Status Report Order
<u>14</u>	<i>Filed & Entered:</i> 10/02/2020	 Status Report
<u>15</u>	<i>Filed & Entered:</i> 12/21/2020	 Scheduling Order
<u>16</u>	<i>Filed & Entered:</i> 01/05/2021	 Administrative Record
<u>17</u>	<i>Filed & Entered:</i> 02/01/2021	 Order Reassigning Case
<u>18</u>	<i>Filed & Entered:</i> 02/03/2021	 Order
<u>19</u>	<i>Filed & Entered:</i> 02/08/2021	 Status Conference
<u>20</u>	<i>Filed & Entered:</i> 02/18/2021	 Order on Motion to Strike
<u>21</u>	<i>Filed & Entered:</i> 02/24/2021	 Answer to Complaint
<u>22</u>	<i>Filed:</i> 02/25/2021 <i>Entered:</i> 02/26/2021	 Order Referring Case to ADR
<u>23</u>	<i>Filed:</i> 02/25/2021 <i>Entered:</i> 02/26/2021	 Scheduling Order
<u>24</u>	<i>Filed & Entered:</i> 06/11/2021 <i>Terminated:</i> 07/22/2021	 Motion for Miscellaneous Relief
<u>25</u>	<i>Filed & Entered:</i> 06/22/2021	 Notice (Other)
<u>26</u>	<i>Filed & Entered:</i> 06/22/2021	 Notice (Other)


































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27	<i>Filed & Entered:</i> 06/23/2021	 Order Setting Deadline/Hearing
28	<i>Filed & Entered:</i> 06/28/2021	 Response/Objection
29	<i>Filed & Entered:</i> 06/28/2021	 Appendix in Support
30	<i>Filed & Entered:</i> 06/28/2021 <i>Terminated:</i> 07/22/2021	 Motion for Protective Order
31	<i>Filed & Entered:</i> 07/01/2021	 Certificate of Conference
32	<i>Filed & Entered:</i> 07/01/2021	 Reply
33	<i>Filed & Entered:</i> 07/02/2021	 Response/Objection
34	<i>Filed & Entered:</i> 07/07/2021	 Response/Objection
35	<i>Filed & Entered:</i> 07/20/2021	 Reply
36	<i>Filed & Entered:</i> 07/20/2021	 Appendix in Support
37	<i>Filed & Entered:</i> 07/22/2021	 Order on Motion for Protective Order
38	<i>Filed & Entered:</i> 07/22/2021	 Order on Motion for Miscellaneous Relief
39	<i>Filed & Entered:</i> 07/30/2021 <i>Terminated:</i> 08/02/2021	 Application for Admission Pro Hac Vice
40	<i>Filed & Entered:</i> 08/02/2021	 Order on Application for Admission Pro Hac Vice
41	<i>Filed & Entered:</i> 08/09/2021 <i>Terminated:</i> 09/30/2021	 Motion to Compel
42	<i>Filed & Entered:</i> 08/10/2021	 Order Setting Deadline/Hearing
43	<i>Filed & Entered:</i> 08/16/2021 <i>Terminated:</i> 09/28/2021	 Motion for Summary Judgment
44	<i>Filed & Entered:</i> 08/16/2021	 Brief/Memorandum in Support of Motion
45	<i>Filed & Entered:</i> 08/16/2021	 Appendix in Support
46	<i>Filed & Entered:</i> 08/16/2021	 Response/Objection
47	<i>Filed & Entered:</i> 08/16/2021	 Appendix in Support
48	<i>Filed & Entered:</i> 08/18/2021	 Order Setting Deadline/Hearing
49	<i>Filed & Entered:</i> 08/18/2021	 Order Referring Case to ADR
50	<i>Filed & Entered:</i> 08/20/2021	 Reply
51	<i>Filed & Entered:</i> 08/25/2021	 Notice of Attorney Appearance
52	<i>Filed & Entered:</i> 08/25/2021	 Motion Hearing
53	<i>Filed & Entered:</i> 08/25/2021	 Order Setting Deadline/Hearing
54	<i>Filed & Entered:</i> 08/29/2021	 Transcript
55	<i>Filed & Entered:</i> 08/31/2021 <i>Terminated:</i> 09/26/2021	 Motion for Leave to File
56	<i>Filed & Entered:</i> 09/02/2021 <i>Terminated:</i> 10/08/2021	 Motion for Miscellaneous Relief
57	<i>Filed & Entered:</i> 09/08/2021	 Additional Attachments to Main Document
58	<i>Filed & Entered:</i> 09/10/2021	 Brief/Memorandum in Support of Motion
59	<i>Filed & Entered:</i> 09/10/2021	 Response/Objection
60	<i>Filed & Entered:</i> 09/10/2021	 Appendix in Support
61	<i>Filed & Entered:</i> 09/21/2021	 Response/Objection

































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62	Filed & Entered: 09/21/2021	 Appendix in Support
63	Filed & Entered: 09/23/2021	 Response/Objection
64	Filed & Entered: 09/23/2021	 Appendix in Support
65	Filed & Entered: 09/24/2021	 Reply
66	Filed & Entered: 09/25/2021	 Scheduling Order
67	Filed: 09/26/2021 Entered: 09/27/2021	 Order on Motion for Leave to File
68	Filed: 09/26/2021 Entered: 09/27/2021	 Amended Complaint
69	Filed & Entered: 09/28/2021	 Notice (Other)
70	Filed & Entered: 09/28/2021	 Order on Motion for Summary Judgment
71	Filed & Entered: 09/30/2021	 Memorandum Opinion and Order
72	Filed & Entered: 10/01/2021	 Reply
73	Filed & Entered: 10/04/2021	 Order
74	Filed & Entered: 10/04/2021 Terminated: 10/05/2021	 Motion for Leave to File
75	Filed & Entered: 10/05/2021	 Order on Motion for Leave to File
76	Filed & Entered: 10/05/2021	 Sur-reply
77	Filed & Entered: 10/08/2021	 Order on Motion for Miscellaneous Relief
78	Filed & Entered: 10/12/2021 Terminated: 12/27/2021	 Motion to Dismiss
79	Filed & Entered: 10/12/2021	 Appendix in Support
80	Filed & Entered: 10/13/2021 Terminated: 10/14/2021	 Motion for Protective Order
81	Filed & Entered: 10/13/2021	 Affidavit of Service
82	Filed & Entered: 10/14/2021	 Order
83	Filed & Entered: 10/14/2021	 Protective Order
84	Filed & Entered: 10/14/2021	 Status Conference
85	Filed & Entered: 10/17/2021	 Transcript
86	Filed & Entered: 10/26/2021	 Status Report
87	Filed & Entered: 10/27/2021	 Stipulation
88	Filed & Entered: 10/29/2021 Terminated: 11/04/2021	 Motion for Leave to File
89	Filed & Entered: 11/01/2021	 Order Setting Deadline/Hearing
90	Filed & Entered: 11/04/2021 Terminated: 11/05/2021	 Motion for Discovery
91	Filed & Entered: 11/04/2021	 Response/Objection
92	Filed & Entered: 11/04/2021	 Order on Motion for Leave to File
93	Filed & Entered: 11/05/2021	 Order on Motion for Discovery
94	Filed & Entered: 11/09/2021	 Response/Objection
95	Filed & Entered: 11/09/2021	 Appendix in Support






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96	<i>Filed & Entered:</i> 11/16/2021 <i>Terminated:</i> 11/16/2021	 Motion to Amend/Correct
97	<i>Filed & Entered:</i> 11/19/2021	 Notice (Other)
98	<i>Filed & Entered:</i> 11/23/2021	 Reply
99	<i>Filed & Entered:</i> 11/29/2021 <i>Terminated:</i> 11/30/2021	 Motion for Discovery
100	<i>Filed & Entered:</i> 11/30/2021	 Order on Motion for Discovery
101	<i>Filed & Entered:</i> 12/07/2021	 Affidavit of Service
102	<i>Filed & Entered:</i> 12/13/2021 <i>Terminated:</i> 12/27/2021	 Motion to Strike
103	<i>Filed & Entered:</i> 12/16/2021 <i>Terminated:</i> 12/29/2021	 Motion for Leave to File
104	<i>Filed & Entered:</i> 12/17/2021	 Order
105	<i>Filed & Entered:</i> 12/20/2021 <i>Terminated:</i> 02/14/2022	 Motion for Miscellaneous Relief
106	<i>Filed & Entered:</i> 12/21/2021	 Response/Objection
107	<i>Filed & Entered:</i> 12/21/2021	 Response/Objection
108	<i>Filed & Entered:</i> 12/22/2021	 Response/Objection
109	<i>Filed & Entered:</i> 12/22/2021	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
110	<i>Filed & Entered:</i> 12/23/2021	 Reply
111	<i>Filed & Entered:</i> 12/27/2021	 Response/Objection
112	<i>Filed & Entered:</i> 12/27/2021	 Order on Motion to Strike
113	<i>Filed:</i> 12/27/2021 <i>Entered:</i> 12/28/2021	 Order on Motion to Dismiss
	<i>Filed & Entered:</i> 12/28/2021	 Modify Hearings/Deadlines
114	<i>Filed & Entered:</i> 12/28/2021	 Scheduling Order
115	<i>Filed & Entered:</i> 12/28/2021	 Order
116	<i>Filed & Entered:</i> 12/29/2021	 Sealed and/or Ex Parte Document
117	<i>Filed & Entered:</i> 12/29/2021	 Notice (Other)
118	<i>Filed & Entered:</i> 12/29/2021	 Order on Motion for Leave to File
119	<i>Filed & Entered:</i> 01/05/2022	 Affidavit of Service
120	<i>Filed & Entered:</i> 01/10/2022	 Response/Objection
121	<i>Filed & Entered:</i> 01/11/2022	 Answer to Amended Complaint
122	<i>Filed & Entered:</i> 01/20/2022	 Reply
123	<i>Filed & Entered:</i> 01/20/2022 <i>Terminated:</i> 02/22/2022	 Motion for Miscellaneous Relief
124	<i>Filed & Entered:</i> 01/20/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
125	<i>Filed & Entered:</i> 01/21/2022 <i>Terminated:</i> 01/27/2022	 Motion for Miscellaneous Relief
126	<i>Filed & Entered:</i> 01/22/2022	 Order on Motion for Miscellaneous Relief
127	<i>Filed & Entered:</i> 01/23/2022	 Response/Objection

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128	<i>Filed & Entered:</i> 01/24/2022	 Order
129	<i>Filed & Entered:</i> 01/24/2022	 Order
130	<i>Filed & Entered:</i> 01/24/2022	 Order
131	<i>Filed & Entered:</i> 01/25/2022	 Response/Objection
132	<i>Filed & Entered:</i> 01/26/2022	 Reply
133	<i>Filed & Entered:</i> 01/27/2022	 Order on Motion for Miscellaneous Relief
134	<i>Filed & Entered:</i> 01/28/2022 <i>Terminated:</i> 01/29/2022	 Motion for Miscellaneous Relief
135	<i>Filed & Entered:</i> 01/29/2022	 Order on Motion for Miscellaneous Relief
136	<i>Filed & Entered:</i> 02/07/2022 <i>Terminated:</i> 02/22/2022	 Motion for Miscellaneous Relief
137	<i>Filed & Entered:</i> 02/07/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
138	<i>Filed:</i> 02/07/2022 <i>Entered:</i> 02/08/2022	 Order Referring Case to ADR
139	<i>Filed & Entered:</i> 02/10/2022	 Sealed and/or Ex Parte Response/Objection
140	<i>Filed & Entered:</i> 02/14/2022	 Order
141	<i>Filed & Entered:</i> 02/14/2022	 Order on Motion for Miscellaneous Relief
142	<i>Filed & Entered:</i> 02/14/2022 <i>Terminated:</i> 02/15/2022	 Motion for Leave to File
143	<i>Filed & Entered:</i> 02/14/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
144	<i>Filed & Entered:</i> 02/15/2022	 Order on Motion for Leave to File
145	<i>Filed & Entered:</i> 02/15/2022 <i>Terminated:</i> 02/22/2022	 Motion for Miscellaneous Relief
146	<i>Filed & Entered:</i> 02/15/2022	 Order
147	<i>Filed & Entered:</i> 02/16/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
148	<i>Filed & Entered:</i> 02/17/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
149	<i>Filed & Entered:</i> 02/21/2022	 Sealed and/or Ex Parte Response/Objection
150	<i>Filed & Entered:</i> 02/22/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
151	<i>Filed & Entered:</i> 02/22/2022	 Order on Motion for Miscellaneous Relief
152	<i>Filed & Entered:</i> 02/28/2022 <i>Terminated:</i> 04/21/2022	 Motion for Miscellaneous Relief
153	<i>Filed & Entered:</i> 02/28/2022 <i>Terminated:</i> 04/12/2022	 Motion for Miscellaneous Relief
154	<i>Filed & Entered:</i> 02/28/2022 <i>Terminated:</i> 03/01/2022	 Motion for Leave to File
155	<i>Filed & Entered:</i> 02/28/2022 <i>Terminated:</i> 04/06/2022	 Motion for Judgment
156	<i>Filed & Entered:</i> 02/28/2022	 Brief/Memorandum in Support of Motion
157	<i>Filed & Entered:</i> 02/28/2022 <i>Terminated:</i> 03/18/2022	 Sealed and/or Ex Parte Motion
158	<i>Filed & Entered:</i> 02/28/2022	 Appendix in Support
159	<i>Filed & Entered:</i> 02/28/2022	 Sealed and/or Ex Parte Document

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160	<i>Filed & Entered:</i> 02/28/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
161	<i>Filed & Entered:</i> 02/28/2022 <i>Terminated:</i> 04/06/2022	 Motion for Summary Judgment
162	<i>Filed & Entered:</i> 02/28/2022	 Brief/Memorandum in Support of Motion
163	<i>Filed & Entered:</i> 02/28/2022	 Appendix in Support
164	<i>Filed & Entered:</i> 02/28/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
165	<i>Filed & Entered:</i> 02/28/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
166	<i>Filed & Entered:</i> 02/28/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
167	<i>Filed & Entered:</i> 02/28/2022	 Sealed and/or Ex Parte Appendix/Brief/Memorandum in Support
168	<i>Filed & Entered:</i> 03/01/2022	 Order on Motion for Leave to File
169	<i>Filed & Entered:</i> 03/01/2022	 Order
170	<i>Filed & Entered:</i> 03/02/2022 <i>Terminated:</i> 04/21/2022	 Sealed and/or Ex Parte Motion
171	<i>Filed & Entered:</i> 03/08/2022	 Response/Objection
172	<i>Filed & Entered:</i> 03/16/2022	 Reply
173	<i>Filed & Entered:</i> 03/18/2022	 Order on Sealed and/or Ex Parte Motion
174	<i>Filed & Entered:</i> 03/18/2022	 Sealed and/or Ex Parte Response/Objection
175	<i>Filed & Entered:</i> 03/18/2022	 Order
176	<i>Filed & Entered:</i> 03/18/2022	 Order Setting Deadline/Hearing
177	<i>Filed & Entered:</i> 03/18/2022 <i>Terminated:</i> 03/21/2022	 Motion for Leave to File
178	<i>Filed & Entered:</i> 03/18/2022	 Response/Objection
179	<i>Filed & Entered:</i> 03/18/2022 <i>Terminated:</i> 03/21/2022	 Motion to Amend/Correct
180	<i>Filed & Entered:</i> 03/21/2022	 Order on Motion for Leave to File
181	<i>Filed & Entered:</i> 03/21/2022	 Order on Motion to Amend/Correct
182	<i>Filed & Entered:</i> 03/21/2022	 Response/Objection
183	<i>Filed & Entered:</i> 03/21/2022	 Appendix in Support
184	<i>Filed & Entered:</i> 03/22/2022 <i>Terminated:</i> 03/22/2022	 Motion to Amend/Correct
185	<i>Filed & Entered:</i> 04/01/2022	 Reply
186	<i>Filed & Entered:</i> 04/01/2022	 Appendix in Support
187	<i>Filed & Entered:</i> 04/01/2022	 Reply
188	<i>Filed & Entered:</i> 04/01/2022	 Sealed and/or Ex Parte Reply/Sur-reply
189	<i>Filed & Entered:</i> 04/01/2022	 Affidavit
190	<i>Filed & Entered:</i> 04/04/2022	 Reply
191	<i>Filed & Entered:</i> 04/06/2022	 Order
192	<i>Filed & Entered:</i> 04/06/2022	 Order on Motion for Judgment
193	<i>Filed & Entered:</i> 04/06/2022	 Scheduling Order
194	<i>Filed & Entered:</i> 04/08/2022	 Order
195	<i>Filed & Entered:</i> 04/11/2022	 Notice of Attorney Appearance

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196	<i>Filed & Entered:</i> 04/12/2022	 Pretrial Conference
197	<i>Filed & Entered:</i> 04/12/2022	 Order on Motion for Miscellaneous Relief
198	<i>Filed & Entered:</i> 04/12/2022	 Order
199	<i>Filed & Entered:</i> 04/12/2022	 Order
200	<i>Filed & Entered:</i> 04/18/2022	 Pretrial Conference
201	<i>Filed & Entered:</i> 04/18/2022	 Order
202	<i>Filed & Entered:</i> 04/19/2022	 Order
203	<i>Filed & Entered:</i> 04/20/2022	 Proposed Findings of Fact
204	<i>Filed & Entered:</i> 04/20/2022	 Witness List
205	<i>Filed & Entered:</i> 04/20/2022	 Exhibit List
206	<i>Filed & Entered:</i> 04/20/2022	 Witness List
207	<i>Filed & Entered:</i> 04/20/2022	 Exhibit List
208	<i>Filed & Entered:</i> 04/20/2022	 Proposed Pretrial Order
209	<i>Filed & Entered:</i> 04/20/2022 <i>Terminated:</i> 04/26/2022	 Motion for Leave to File
210	<i>Filed & Entered:</i> 04/20/2022	 Pretrial Disclosures
211	<i>Filed & Entered:</i> 04/20/2022	 Pretrial Disclosures
212	<i>Filed & Entered:</i> 04/21/2022	 Order
213	<i>Filed & Entered:</i> 04/21/2022	 Order on Sealed and/or Ex Parte Motion
214	<i>Filed & Entered:</i> 04/21/2022 <i>Terminated:</i> 04/21/2022	 Motion for Leave to File
215	<i>Filed:</i> 04/21/2022 <i>Entered:</i> 04/22/2022	 Memorandum Opinion and Order
216	<i>Filed:</i> 04/21/2022 <i>Entered:</i> 04/22/2022	 Order on Motion for Leave to File
217	<i>Filed:</i> 04/21/2022 <i>Entered:</i> 04/22/2022	 Proposed Findings of Fact
218	<i>Filed & Entered:</i> 04/22/2022	 Order
219	<i>Filed & Entered:</i> 04/23/2022	 Response/Objection
220	<i>Filed & Entered:</i> 04/25/2022	 Pretrial Disclosures
221	<i>Filed & Entered:</i> 04/25/2022	 Reply
222	<i>Filed & Entered:</i> 04/25/2022	 Pretrial Disclosures
223	<i>Filed & Entered:</i> 04/25/2022	 Response/Objection
224	<i>Filed & Entered:</i> 04/25/2022	 Response/Objection
225	<i>Filed & Entered:</i> 04/26/2022	 Order
226	<i>Filed & Entered:</i> 04/26/2022	 Telephone Conference
227	<i>Filed & Entered:</i> 04/26/2022	 Order
228	<i>Filed & Entered:</i> 04/26/2022	 Scheduling Order
229	<i>Filed & Entered:</i> 04/26/2022	 Order on Motion for Leave to File
230	<i>Filed & Entered:</i> 04/26/2022	 Amended Complaint
231	<i>Filed & Entered:</i> 04/27/2022	 Order

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232	Filed & Entered: 04/28/2022	Telephone Conference
233	Filed & Entered: 05/03/2022	Answer to Amended Complaint
234	Filed & Entered: 05/04/2022	Transcript
235	Filed & Entered: 05/11/2022	Designation of Deposition
236	Filed & Entered: 05/14/2022	Order
237	Filed & Entered: 05/17/2022	Pretrial Conference
238	Filed & Entered: 05/18/2022	Transcript
239	Filed: 05/18/2022 Entered: 05/19/2022	Bench Trial
240	Filed & Entered: 05/19/2022	Transcript
241	Filed & Entered: 05/20/2022	Bench Trial
242	Filed & Entered: 05/23/2022	Transcript
243	Filed: 05/23/2022 Entered: 05/24/2022	Bench Trial
244	Filed & Entered: 05/24/2022	Transcript
245	Filed & Entered: 05/24/2022	Bench Trial
246	Filed & Entered: 05/25/2022	Transcript
247	Filed & Entered: 05/25/2022	Bench Trial
248	Filed & Entered: 05/26/2022	Bench Trial
249	Filed & Entered: 05/26/2022	Transcript
250	Filed: 05/26/2022 Entered: 05/27/2022	Court's Exhibit/Witness List
251	Filed: 05/26/2022 Entered: 05/27/2022	Court's Exhibit/Witness List
252	Filed & Entered: 05/27/2022	Court's Exhibit/Witness List

PACER Service Center**Transaction Receipt**

06/03/2022 10:58:27

PACER Login:	bg0257:2513178:0	Client Code:	Cloud
Description:	History/Documents	Search Criteria:	3:20-cv-01277-S
Billable Pages:	6	Cost:	0.60

EXHIBIT 3-C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES DIMRY,
Plaintiff,
v.

THE BERT BELL/PETE ROZELLE NFL
PLAYER RETIREMENT PLAN, et al.,
Defendants.

Case No. [3:16-cv-01413-JD](#)

**ORDER RE ATTORNEY'S FEES AND
COSTS**

Re: Dkt. No. 86

In this benefits dispute under ERISA, plaintiff Dimry, a former NFL player, requests reasonable attorney's fees and costs incurred in winning a remand of his disability claim against defendants. The Court overturned defendants' denial of total and permanent disability benefits to Dimry because the administrative record indicated that defendants gave no consideration to Dimry's substantial body of medical opinions documenting a possible total disability, and instead relied exclusively on a doctor who was regularly paid substantial sums by defendants and consequently had a financial incentive to give opinions favorable to them. In addition, defendants did not take into account a determination by an administrative law judge at the Social Security Administration that there were no jobs in the national economy that Dimry could perform. For these and other reasons, the Court concluded that defendants had abused their discretion in denying Dimry's benefits claim, and remanded the matter for further proceedings consistent with its findings. *See generally* Dkt. No. 80. Dimry now requests an award of \$279,300 in attorney's fees and \$2,635.62 in costs. Dkt. No. 86.

The threshold question is whether Dimry is entitled to fees. ERISA provides that "reasonable attorney's fees and costs" are available "to either party" in the Court's discretion. 29 U.S.C. § 1132(g)(1). In contrast to other statutes, Section 1132(g)(1) does not limit awards to

1 “prevailing parties.” *Hardt v. Reliance Standard Life Ins. Co.*, 560 U.S. 242, 251-52 (2010). All
2 that is required is that the party seeking fees must show “some degree of success on the merits.”
3 *Id.* at 255 (internal quotation omitted). The discretion to award fees is guided by the “general
4 rule” that a successful ERISA plaintiff should, in the ordinary course, receive fees from the
5 defendant. *Smith v. CMTA-IAM Pension Trust*, 746 F.2d 587, 589 (9th Cir. 1984).

6 There is no question that Dimry achieved considerable success on the merits of his claim.
7 The Court set aside the denial of his disability claim for abuse of discretion, which in any
8 reckoning is a substantial and positive result. That the matter was remanded for further
9 consideration is no bar to a fee award. *Hardt* expressly contemplated that a remand “without
10 more” could constitute “some success on the merits,” *Hardt*, 560 U.S. at 256, and the
11 circumstances here amply establish that the remand was made to correct defendants’ abuse of
12 discretion in denying Dimry’s claims, which effectively denied him the kind of fair review he was
13 entitled to under ERISA. A fee award is perfectly appropriate on this record, and our circuit has
14 held as much in two unpublished opinions. *See Flom v. Holly Corp.*, 276 Fed App’x 615, 616-17
15 (9th Cir. 2008); *Mizzell v. Provident Life & Accident Ins. Co.*, 32 Fed App’x 352, 353-54 (9th Cir.
16 2002).

17 The next question is whether the requested fees are reasonable. Dimry’s lawyers seek
18 hourly rates of \$450 for the associate on the case, and \$900 for the partner. They support these
19 hourly rates with evidence of prevailing rates in the market in the form of declarations from
20 ERISA attorneys not involved in this dispute, and citations to fee awards in other cases that
21 approved similar, albeit somewhat lower, hourly rates. *See, e.g.*, Dkt. No. 86 at 8-9; Dkt. No. 91
22 at 7-9; Dkt. No. 92-1. The attorneys also provided their time records, which present in a lodestar
23 approach the time spent on specific tasks by each lawyer, and the amount billed for these tasks.
24 Dkt. No. 86-3.

25 These materials discharged the fee claimant’s burden of submitting evidence supporting
26 the reasonableness of their rates, time use and overall bills. *Hensley v. Eckerhart*, 461 U.S. 424,
27 433 (1983); *Welch v. Metropolitan Life Ins. Co.*, 480 F.3d 942, 945 (9th Cir. 2007). Defendants
28 do not present any facts to rebut or discount these showings. *See* Dkt. No. 90 at 7-9. They offer

1 only generic complaints that the rates and fees were excessive, unsupported by counter-
2 declarations or other meaningful evidence to prove their point. Their criticism of the billing
3 entries is equally general and unhelpful to their argument. *See* Dkt. No. 90-1. Moreover, the
4 Court's review of the attorney time entries shows that they were consistent with good practices in
5 terms of detail and specificity. Overall, defendants have not tendered any evidence that might call
6 into question the reasonableness and fairness of the hourly rates and total fees plaintiff's counsel
7 seek. *See United Steelworkers of America v. Retirement Income Plan for Hourly-Rated*
8 *Employees of Asarco, Inc.*, 512 F.3d 555, 565 (9th Cir. 2008).

9 Defendants' objection that Dimry should not get full fees because a few claims were
10 dismissed early in the case is also unpersuasive. All of Dimry's claims arose from the same core
11 of facts such that the work done on the dismissed claims was likely to have aided and overlapped
12 with the successful abuse of discretion claim. Defendants have not shown otherwise, or that the
13 dismissed claims were entirely distinct from the successful one. That is enough to find that all of
14 Dimry's claims were related for fee award purposes. *See Hensley*, 461 U.S. at 440; *Schwarz v.*
15 *Sec'y of Health & Human Servs.*, 73 F.3d 895, 903 (9th Cir. 1995); *see also Younkin v. Prudential*
16 *Ins. Co. of America*, 288 Fed App'x 344, 346 (9th Cir. 2008).

17 An award of fees and costs is also warranted under the guidelines in *Hummell v. S.E.*
18 *Rykoff & Co.*, 634 F.2d 446, 453 (9th Cir. 1980). Strictly speaking, these factors are not contained
19 in Section 1132(g)(1) and are not required by the statute to be taken into account. *See Hardt*, 560
20 U.S. at 254-55. However, our circuit has "traditionally" looked to the *Hummell* guidelines and
21 requires that they be considered, which *Hardt* did not foreclose. *Simonia v. Glendale*
22 *Nissan/Infiniti Disability Plan*, 608 F.3d 1118, 1121 (2010) (citing *Hardt*, 560 U.S. at 255 n.8).

23 An award here amply satisfies the five *Hummell* factors. First, defendants manifested a
24 degree of culpability and bad faith in denying Dimry's claim in the manner discussed in the merits
25 order, Dkt. No. 80. Second, there is no dispute that defendants have the ability to pay the claimed
26 fees and costs. Third, the award should have a deterrent effect on defendants from engaging in a
27 similar abuse of discretion in handling other claims. Fourth, other claimants will be able to rely on
28

1 the Court's merits decision to prosecute other benefits claims with defendants. And fifth, the
2 relative merits tilted substantially in Dimry's favor, as the remand order concluded.

3 Nothing in the record indicates that this case should depart from the general rule of
4 awarding fees and costs to successful ERISA litigants. Consequently, fees and costs are awarded
5 as follows: (1) \$279,370 in fees up to this motion; (2) \$13,230 in fees for this motion (Dkt.
6 No. 91-2); (3) \$2,635.62 in costs; and (4) post-judgment interest at a rate and in an amount to be
7 stipulated to by the parties as guided by statute. The stipulation should be filed by **January 14,**
8 **2019.** Pre-judgment interest was not requested and the Court declines to award it. *Blankenship v.*
9 *Liberty Life Assurance Co. of Boston*, 486 F.3d 620, 627-28 (9th Cir. 2007).

10 **IT IS SO ORDERED.**

11 Dated: December 22, 2018

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JAMES DONATO
United States District Judge